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***Administration and Operations  
Policy on Regulatory Processes***

***PREPARATION OF FEDERAL REGISTER DOCUMENTS***

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Signed \_\_\_\_\_  
[Approving Authority name] Date  
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# **PREPARATION OF FEDERAL REGISTER DOCUMENTS**

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**National Marine Fisheries Service**

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## **FOREWORD**

*This revises the March 10, 1995, handbook, a guide to drafting and reviewing NMFS's documents for publication in the Federal Register (FR). It conforms to the requirements of the Document Drafting Handbook published by the Office of the Federal Register (OFR) and to the requirements and legal policies specific to NOAA and to the DOC General Counsel. Preparation of Federal Register Documents is available as a hard copy or as an electronic file at this web site: [http://home.nmfs.noaa.gov/sf5/regs\\_unit.htm](http://home.nmfs.noaa.gov/sf5/regs_unit.htm)*

*The guide is maintained and revised by the Regulatory Unit (Regs); its present staff are Tracey Thompson, Programmatic Leader and Liaison Officer; Helen Troupos, Fishery Management Specialist and Alternate Liaison Officer, Guy Bellamy, Writer/Editor and Alternate Liaison Officer, Mitchell Bryman, Writer/Editor and Alternate Liaison Officer, and Jean Taylor, Regulations Analyst. They provide guidance on document drafting and on agency and Federal Register publishing procedures, serve as liaison between NOAA and the OFR, review regulations and technical documents, and provide individualized instructions or formal group training.*

### **Acknowledgment**

*We would like to recognize Rod Dalton, Guy Bellamy, the legal team Tricia Choe, Dan Cohen, Jennifer Nist, Caroline Park, and Peter Robbins and the OFR staff, who, out of their busy schedules, found time to review this document. Each one has contributed in his or her unique way to the accuracy of this handbook. We are grateful.*

## INTRODUCTION

*This guidance document is intended to assist those drafting or reviewing documents for publication in the Federal Register (FR). It is based on the OFR's 1998 edition of the "Document Drafting Handbook," with specific examples from actual and simulated National Marine Fisheries Service (NMFS) FR documents.*

*Included are suggestions for document formatting, for improving document drafting, for eliminating common problems and errors, and for reducing the length, and hence the publication costs, of FR documents.*

*If you find that some of the guidance in this document is inconsistent with that in the "Document Drafting Handbook," the reason is that an FR document drafting is subject to both organizational and OFR requirements. NMFS, NOAA, and Department of Commerce (DOC) policies prescribe that FR documents contain certain elements or language that may not be required by the OFR. Legal policies or requirements at the NOAA and DOC General Counsel levels establish additional requirements. In some cases, individualized guidance from the OFR staff as to their preference or requirements in drafting styles or formats differs from that in their handbook; often the verbal guidance goes beyond material in the handbook to clarify or address specific and unusual publication situations. Nonetheless, to the extent possible, this document presents the most recent*

*guidance from all sources, as of the revision date. Comments, corrections, and suggestions for making this document as useful as possible are encouraged.*

*A note of caution:*

*1. In drafting new documents strictly on precedence, remember that the OFR sometimes accepts documents that are not very well prepared, but that meet its requirements well enough to be published (or well enough that the staff can fix them before publication). Therefore, just because a document was published does not mean that it was done well, or even that it was correct. So, it is important to consider each document individually and not to make the mistake of trying to make one document look like another.*

*2. NMFS' FR documents are numerous, diverse, and often present unusual problems for drafters and for the OFR staff. In fact, according to the OFR staff, NMFS documents are among the most unusual ones published by Federal agencies. The number of emergency actions and the frequency with which NMFS makes temporary regulatory changes, which are then often extended and/or revised, creates complex and challenging drafting situations. Also, the number of emergency filing ("file immediately") requests sent to the OFR is much greater than that for most other agencies; this puts a stress on both NMFS and the OFR staff and makes the need for "perfect" documents all the more acute.*

- 3. Errors do go through the system. NMFS' and OFR's staff are often working under tight deadlines, causing faulty documents to be occasionally published.*
- 4. Guidance changes over time; this applies not only to OFR guidance, but also to Agency, Departmental, and General Counsel guidance, as mentioned above.*
- 5. Although, in some cases, there is more than one "right" way to handle a drafting situation (though one way is often better than another), it is still the agency's responsibility, not that of the OFR, to produce clear, concise, and error-free documents.*



# **PART I: FEDERAL REGISTER DOCUMENT**

*WHAT IS IT?*

# **Chapter 1: Background Information**

## **I. Sources**

## **II. Reasons for Publication of a Document in the Federal Register (FR)**

## **III. Office of Federal Register (OFR) Publications**

## **IV. Code of Federal Regulations (CFR) Structure**

## **V. CFR Categories**

## **VI. Federal Register Publication System**

## **VII. Filing and Publication Schedule**

## **I. Sources**

1. Much of the information contained in this guidance document is derived from the Office of Federal Register's publication the "Federal Register Document Drafting Handbook," 1998 Edition.
2. Additional guidance obtained from departmental, agency, and legal policies and procedural requirements.

## **II. Reasons for Publication of a Document in the Federal Register (FR)**

1. A publication in the FR has the following legal effects:
  - a. Provides official notice to the public;
  - b. Creates a rebuttable presumption that the text is a true copy of the original;
  - c. Provides evidence that is judicially noticed by a court of law; and
  - d. Indicates the date of the issuance of the regulation.

2. The Administrative Procedure Act (APA) (recodified at 5 U.S.C. 551 *et seq.*) added the following dimensions to publication in the FR:
  - a. Gave the public, with certain exceptions, the right to comment on proposed rules;
  - b. Required that effective dates for regulations be no less than 30 days from the date of publication, except in certain limited circumstances; and
  - c. Provided for publication of agency statements of organizational and procedural rules.

### **III. Office of the Federal Register (OFR) Publications**

The two OFR publications and its electronic system are very important to NMFS :

1. The daily FR, in which rules, proposed rules, and notices are published. The FR is the mechanism for amending the regulations in the CFR.
2. An annually revised CFR, which is the codification of regulations. The CFR carries regulations currently in effect.
3. The electronic Code of Federal Regulations (e-CFR), which is a prototype of a frequently updated version of the CFR. The e-CFR is a type of a working CFR, allowing you to check the current effective text amended and put in place by final rules published in the FR. Search the e-CFR at <http://www.access.gpo.gov/ecfr>.

### **IV. Code of Federal Regulations (CFR) Structure**

1. Title. A title covers broad subject areas (e.g., title 50 CFR is "Wildlife and Fisheries"). The CFR has 50 titles, arranged according to subject matter; OFR assigns the title, chapter, and part

numbers upon agency request to the CFR unit at the OFR. Requests for new part numbers should be made through NMFS' Liaison Officer.

2. Subtitle. A subtitle divides a title into related chapters .
3. Chapter. A chapter is usually assigned to a single agency, and it is conventional to be followed by a Roman numeral (I, II, III, etc.).
4. Part. A part contains regulations applying to a single function of an agency (e.g., one fishery, such as PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES); it is followed by an Arabic number (1, 2, 3, etc.).
5. Subpart. A subpart divides the part into related sections; it is followed by a capital letter.
6. Section. A section consists of the section symbol, the part number, a period, and the number of the section, (e.g., § 648.1).
7. Paragraph. A paragraph is a text division below the section level.

[NOTE: There is no term "subparagraph." Each division below a section is called a paragraph.]

8. Paragraphs are designated as follows:

Level 1: (a), (b), (c), etc.;

Level 2: (1), (2), (3), etc.;

Level 3: (i), (ii), (iii), etc.;

Level 4: (A), (B), (C), etc.;

Level 5: (1), (2), (3), etc., (must be underlined when submitted to the OFR to appear in italics when published); and

Level 6: (i), (ii), (iii), etc., (must be underlined when submitted to the OFR to appear in italics when published).

NOTE: Avoid using levels 5 and 6, if possible because reading and amending the regulations

becomes more difficult. If possible, start a new paragraph or section to accommodate additional material, instead of making existing sections extremely complex.

## V. FR Categories

Documents published in the FR are divided into five categories, each of which has a separate section in the FR:

### 1. *What Is Published in the President's Section?*

This section contains Executive orders, Presidential proclamations, and other documents presented by the President.

### 2. *What Is Published in the Rules and Regulations' Section?*

This section contain documents that have general applicability and legal effect and, generally, have regulatory text codified in the CFR. Some rules may not contain regulatory text. Samples [3](#) and [4](#) in the Appendix are examples of Rules and Regulations. There are several types of rules for purposes of the FR, each of which has different procedural implications under the APA. As described below, a rule can be a final, interim, temporary, or direct rule:

a. ***Final Rule***. A final rule is a rule that (a) is promulgated after notice of and comment on a proposed rule, unless a good cause waiver or other APA exception applies, (b) has no expiration date, and (c) has a 30-day delay of effectiveness, unless the requirement is waived for good cause or an APA exception applies.

Like a final rule, an ***Interim Rule*** has no expiration date. An *Interim Rule* typically is a rule that: (a) is promulgated without notice of and comment on a proposed rule pursuant to a good cause waiver or other APA exception; and (b) has a good cause waiver for or exception to the 30-day delay of

effectiveness. When it publishes, the interim rule usually solicits public comment, then a final rule is published in the FR, revised or unrevised based on comments received. Interim rules should be used only for special situations.

b. **Temporary Rule**. A temporary rule is effective immediately for a short or definable period of time. Thus, it typically is a rule that (a) has an expiration date, (b) is promulgated without a proposed rule under a good cause waiver or other APA exception, and (c) has a good cause waiver for or APA exception to the 30-day delay of effectiveness. The following types of actions fall under the temporary rule category:

(1) A rule that is promulgated under the APA without a preceding proposed rule, with an expiration date, and before comments. After comments are received, a final rule is published in the Federal Register and may be revised based on comments received on the proposed rule. The Classification section states the cause for the waiver to the solicitation of public comments and to the 30-day delay of effectiveness.

(2) A rule that is promulgated under the authority of section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to address an emergency (i.e., unforeseen events that may have an adverse effect on a resource, industry, or communities), regardless of whether a fishery management plan (FMP) exists for the fishery. The rule may be promulgated with notice and an opportunity for public comment on a proposed rule, or without a proposed rule if a good cause waiver or other APA exception applies. The rule remains effective for no more than 180 days after date of publication. It can be extended once for another 180 days, provided that the public is given an opportunity to comment on the rule, and in the case of a council recommendation for emergency regulations, the council is actively preparing an FMP, plan amendment, or a proposed rule to address the emergency on a permanent basis. The ACTION line should specify: proposed rule (if a proposed rule is published), temporary rule (for the emergency rule), and temporary rule (if the emergency rule is extended).

(3) A rule that is promulgated under the authority of section 305(c) of the Magnuson-Stevens Act for interim measures needed to reduce overfishing for a fishery, regardless of whether a fishery management plan (FMP) exists for the fishery. The rule may be promulgated with notice and an opportunity for public comment on a proposed rule, or without a proposed rule if a good cause waiver or other APA exception applies. The rule remains effective for no more than 180 calendar days after date of publication. It can be extended once for another 180 days, provided that the public is given an opportunity to comment on the rule, and in the case of a council recommendation for interim measures, the council is actively preparing an FMP, plan amendment, or a proposed rule to address the overfishing on a permanent basis. The ACTION line should specify: proposed rule (if a proposed rule is published), temporary rule (for the emergency rule), and temporary rule (if the emergency rule is extended).

c. Direct Rule. Like a final rule, a direct final rule has no expiration date. It typically is a rule that (a) is promulgated without a proposed rule under a good cause waiver or other exception, and (b) has a good cause waiver for or exception to the 30-day delay of effectiveness. Comments received after promulgation of the direct final rule can rescind the rule if one or more comments are negative. In APPENDIX, Samples [3](#) and [4](#) are examples of final rules.

NOTE: The type of rule, such as final, interim, temporary, direct, or proposed, should be included in the ACTION line of a rule. [Chapter 2](#) describes the required document format.

Legal authority for a rule should be provided in the regulatory text as instruction No. 1. If the rule lacks regulatory text, the authority statement appears before the signature block.

### *3. What Is Published in the Proposed Rules' Section?*

This section contains documents of proposed rulemaking to be implemented through final rules and documents that contain determinations and hearings.

Proposed rules propose new regulations or changes to NMFS' regulations in the Code of Federal Regulations (CFR) and request the public to comment on the proposed changes. In addition to proposing

regulatory text, a proposed rule (PR) can affect or relate to other documents previously published in the Proposed Rules section, such as a change in public comment period, a withdrawal of proposed rule, corrections to proposed rules, etc. or can describe the subjects and issues involved, such as hearings, notices of availability of supplemental information, and notices of intent, which describe information but don't affect the CFR. (In [Appendix](#), Samples [1](#) and [2](#) are documents in the proposed rule category.)

#### *4. What Is Published in the Notices' Section?*

This section contains miscellaneous documents applicable to the public. A notice is the most common document published by the Federal Register. The primary purpose of a notice document is to provide information of public interest such as meetings, to announce the availability of permit applications, and to publish requirements and guidelines for grant applications. Notices do not contain regulatory text. (In [Appendix](#), Samples [5](#) and [6](#) are documents in the notice category.)

#### *5. What Is Published in the Corrections' Section?*

The Corrections Section contains OFR's corrections for errors that it made during publication. Consult with a regional or GCF attorney on possible APA issues regarding OFR-made corrections. NOTE: Agency-made errors are not published in the Corrections Section of the FR, but are addressed as Corrections or Correcting Amendments. See [Chapter 6](#) for further explanation.

#### **CAUTION:**

1. Do not submit documents for publication with the Federal Register that contain mixed category text (e.g., final and proposed rulemaking). OFR will not accept them.
2. Avoid using the term "notice" in the action line of any document that is to appear in the "Proposed Rules" or "Rules and Regulations" sections of the FR. This can lead to confusion as to



which section the document is to be published in. For example: Instead of writing "Notice of final initial specifications" after the ACTION caption, write "Final initial specifications."

## **VI. Federal Register Publication System**

1. It provides a uniform system to manage the publications of Government regulations and notices.
2. Through this system, Federal Register published regulations make changes to the appropriate CFR volume and keep the CFR current.
3. As all systems, Federal Register has its systemic conventions:
  - a. To cite properly the Federal Register, state the year volume number and the Federal Register page number, followed by the date of publication, for example: "68 FR 10497, March 12, 2003." (See [Comment 1](#))
  - b. To be consistent with its linguistic conventions, follow the U.S. Government Printing Office Style Manual. The Manual may be viewed at <http://www.gpoaccess.gov/stylemanual/browse.html> or may be obtained from the Superintendent of Documents, Government Printing Office.
  - c. To follow accurately the steps you should take to submit your document for publication, see [Comment 2](#).

## **VII. Filing and Publication Schedules**

1. Documents received at the OFR by 2 p.m. are assigned to that day's regular schedule (unless

a document is approved for emergency publication; see below). Documents received after 2 p.m. are assigned to the next working day's regular schedule. A Federal holiday adds 1 day to the schedule.

The regular schedule is:

Received before 2 p.m.	Filed	Published
Monday	Wednesday	Thursday
Tuesday	Thursday	Friday
Wednesday	Friday	Monday
Thursday	Monday	Tuesday
Friday	Tuesday	Wednesday

2. If a calculated day of effectiveness falls on a holiday, the OFR will delay the date of effectiveness to the next working day. If the calculated days are defined as calendar days and the date of effectiveness falls on a holiday, the OFR accepts this date to be the effective date.

NOTE: The OFR publishes a table of effective dates and time periods in the first FR issue of every month that is helpful in determining dates of future actions (15, 30, 45, 60, and 90 days from dates of publication).

3. If a document is time critical, the fastest way to put it in place is to tie it to the date of filing, rather than to the date of publication, and to send it to the OFR with a "file immediately" letter (emergency filing). However, this should be done only when absolutely necessary because (1) it requires special handling on the part of the OFR staff; (2) it is the opinion of the OFR lawyers that publication, not filing, is the most important event in public notification (though filing does provide public notice); and (3) there is no guarantee that the OFR can file the document immediately, especially if it is received late in the day.

A document accepted for emergency filing (which NMFS often refers to as "file immediately") will normally be filed on the day of receipt, if possible, and will be published on the normal schedule. "File immediately" is helpful when a document is to become effective upon filing and time is critical. Documents announcing in-season actions, fishery openings and closings, or any other emergency action are subjects to emergency filing.

4. It is important to remember that the OFR considers publication the most important event for public notification, not filing. Emergency filing should be used only when absolutely necessary. Although the OFR tries to accommodate such requests, there is no guarantee that a document can be filed on the same day it is received, especially if it is received late in the day. Long and complex documents, especially if they contain extensive regulatory text, will likely take longer.
5. The only mechanism available for accelerating the publication of a document (as opposed to the filing of a document) is emergency scheduling (emergency publication). This must be done through a letter to the Director of the OFR from the Liaison Officer stating the need for emergency scheduling. This is rarely used by NMFS and should be reserved for genuine emergencies (e.g., endangerment of public health or safety). The publication date will then be the earliest available from the OFR, given scheduling constraints.

## **Chapter 2: Federal Register Document Writing Requirements**

### **I. Final Rule, Proposed Rule, and Notice: Structure**

### **II. The Regulatory Document: Content**

#### **I. Final Rule, Proposed Rule, and Notice: Structure**

Federal Register documents consist of two major parts: the preamble and the regulatory text. The preamble is the non-codified text of the document, which establishes the background information and the basic facts behind the action. The regulatory text is the codified text, which, upon the effective date of the final rule, becomes a part of the regulations in the CFR.

#### *Required Format for Final and Proposed Rules*

The billing code is required in all documents and it should appear in the upper right-hand corner of your document. NMFS' billing code is 3510-22-S, "S" is the first letter of the acronym SGML, meaning Standard Generalized Mark-up Language. But, if the document is submitted as a WordPerfect copy, the billing code is 3510-22-P, "P" standing for "WordPerfect." The Government Printing Office (GPO) assigns the billing codes to properly bill its customers for documents published in the Federal Register.

The following headings should appear in your final and proposed rule document:

#### *Headings*

DEPARTMENT OF COMMERCE (*Department name, in all caps*)

National Oceanic and Atmospheric Administration (*Subagency name, in uppercase initials*)

50 CFR Part 679 (*CFR citation; Uppercase the “P” in “Part”*)

Docket No. 010313063-1063-01; I.D. 111501A (*Docket number and NMFS’ document identification number*)

RIN 0648-A020 (*Regulation Identifier Number*)

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements (*Subject heading, no period*)

#### *Preamble*

AGENCY: (*Names the agency issuing the document, in uppercase initials, followed by a period*)

ACTION: (*Identifies the type of document*)

SUMMARY: (*States, first, the action that is being taken, second, the reason this action is necessary, and, third, the intended effect of this action*)

DATES: (*States the date and time the public must respond to the document.*)

ADDRESSES: (*States the place where the public can mail public comments, inspect materials, or attend a hearing.*)

FOR FURTHER INFORMATION CONTACT: (*Provides the name and the telephone number of the person within our agency who is knowledgeable about the subject matter; it may further provide the person’s e-mail or fax number, but not the person’s address. This caption should appear in all FR documents.*)

SUPPLEMENTARY INFORMATION: (*States all other relevant information, being the body of the document.*)

LIST OF SUBJECTS: *(Identifies a list of index terms for each CFR part cited in the heading of the document.)*

Signature Block:

The signature block should appear as follows:

Dated: November 15, 2001. *(Use the same punctuation)*

\_\_\_\_\_ *(Signed by the authorized official. No one may sign “for” the authorized official.)*

Bruce C. Morehead, *(Type the name of the above signer and use a comma at the end. Do not include initials such as Ph.D. after the name.)*

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service. *(Title of the above signer. Follow the same punctuation.)*

### *Regulatory Text*

Words of Issuance. These words are contained within the paragraph introducing the regulatory text and read as follows:

1. In a final rule: “For the reason set out in the preamble, NMFS amends 50 CFR part 223 to read as follows:”
2. In a proposed rule: “For the reason set out in the preamble, NMFS proposes to amend 50 CFR part 223 to read as follows:”
3. The following are the basic elements to the amendatory and regulatory language:
  - a. Part heading
    1. Instruction 1 *(Introduces the authority citation)*

2. Authority citation (*Authorizes the agency to change the CFR*)
3. Instruction 2 (*Amendatory language*)
4. Regulatory text
5. Asterisks (*Three stars for text omitted in a designated paragraph; five stars for paragraphs omitted in a section*)

*For example:*

#### PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531-1543 et seq.

2. In § 223.102, revise paragraph (a)(2)(i) to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

(a) \* \* \*

(2) \* \* \*

(i) The species determined by the Secretary of Commerce to be threatened under section 4 (a) of the Act, as well as species listed under the Endangered Species Conservation Act.

\* \* \* \* \*

(For a complete sample of a proposed rule, see APPENDIX, Samples 1 and 2, and of a final rule, see APPENDIX, Samples [3](#) and [4](#).)

#### *Required Format for a Notice Document*

Notices contain no regulatory text. We recommend that you follow the same heading and preamble requirements as those for proposed and final rules. However, the captions DATES and ADDRESSES may be omitted if the writer finds them unnecessary. Since notices are frequently

used to announce meetings, the OFR designed its own format for the captions of DATES and ADDRESSES:

1. Under DATES, do not use more than four dates:

a. If you have more than four dates, tell the reader to look for specific dates and times under Schedule for Hearings, or Meetings, or Hearings and Meetings (whatever the case may be), in the SUPPLEMENTARY INFORMATION section.

b. Then, under ADDRESSES, tell the reader to look for specific locations under Schedule for hearings, or meetings, or Hearings and Meetings (whatever the case may be), in the SUPPLEMENTARY INFORMATION section.

2. Under FOR FURTHER INFORMATION CONTACT, include only a name and telephone/fax, and an e-mail address. If you have several e-mail addresses, note in the FOR FURTHER INFORMATION CONTACT section that a listing of e-mail addresses can be found in the SUPPLEMENTARY INFORMATION section under Electronic Access.

3. Under SUPPLEMENTARY INFORMATION, state all other relevant information as this is the body of the document where additional details and clarifications are to be inserted.

4. In the signature block, use only the name of the person authorized to sign. Immediately below the signature, type the authorizing signature and the full title of the person who signed the document.

5. The authority citation should be included either in a sentence under SUPPLEMENTARY INFORMATION or as an authority citation before the signature block.

(For a complete sample of a notice, see APPENDIX, samples [5](#) and [6](#).)



## **II. The Regulatory Document: Content**

The Federal Register regulatory document requires that the content of each of its sections serve a special purpose.

### *The Docket Number and I.D. Number*

1. The docket number is inserted after the entire review cycle is complete; it is provided to NMFS by the Office of the General Counsel, DOC (DOC OGC), and amounts to permission to publish. Until the docket number is received, the document will not be signed by the Assistant Administrator for Fisheries, NOAA, (AA), and cannot be sent to the OFR.
2. The I.D. number is assigned to each document reviewed by the Regs Unit of F/SF5 upon receipt of the document. It is used to track the document in the database from which the Weekly Management Schedule is produced. The I.D. number consists of the date the document was logged into F/SF5 and a letter to indicate the order in which the document was received on a given date. For example, the I.D. 011602B would be assigned to the second document logged in on January 16, 2002.

NOTE: For "inseason actions" and other documents that do not require OMB approval, use the docket number from the final rule document that originally authorized the action being taken; a new docket number will not be assigned. A Notice document does not typically require a docket number, unless it is subject to DOC OGC clearance. However, all FR documents must carry an I.D. number.

### *The RIN number*

RIN means a regulation identifier number. Under E.O. 12866, each agency must submit an

agenda of upcoming regulations for the following year. This is published in the FR semiannually (April and October) as a Unified Agenda; each regulation submitted by the agency is assigned a RIN. DOC OGC will assign RINs to regulatory actions that were not submitted as part of the Unified Agenda if they are subject to OMB review under E.O. 12866. NMFS RIN numbers can be found in the most recent Unified Agenda. Each Unified Agenda carries RINs for all agency actions under review or upcoming; it should, therefore, be necessary to refer to only the most recent Unified Agenda to find a RIN.

### *The ACTION Caption*

This line identifies the type of action being taken, followed by a period. Since it is not a summary, it should be brief. The following are possible action lines:

Final rule.

Final rule; correcting amendment.

Proposed rule.

Proposed rule; correction.

Interim rule.

Public hearing.

Advance notice of proposed rulemaking.

CAUTION: Do not use the term "notice" in the action line, unless the document is intended to be published in the Notices section of the FR ("advance notice of proposed rulemaking" is an exception to this rule).

### *The SUMMARY Caption*

The SUMMARY should be simple and brief, be written in language easily understood by the general public, and be kept to one paragraph and to no more than 2/3 of a double-spaced page. It should answer these three questions:

What action is being taken?

Why is the action necessary?

What is the intended effect of the action?

The major purpose of the SUMMARY is to allow the public to determine whether the document is likely to be of interest; it is not intended to thoroughly summarize the content of the document. If the SUMMARY is too long or includes excessive detail, the OFR will not accept it; details belong in the SUPPLEMENTARY INFORMATION section.

Any references to an act of Congress in the SUMMARY should use the popular name (e.g., Magnuson-Stevens Act). Legal citations, citations to CFR text or to FR documents, and numbered or lettered items should not be used in the SUMMARY. The appropriate place to include legal, CFR, and FR citations is under SUPPLEMENTARY INFORMATION. (See [Example 1](#))

### *The DATES Caption*

This caption should contain language related only to dates. It provides effective dates to the action being taken. The two different dates, the effective and applicability date, will be covered here:

#### *Effective Date*

The effective date is the date on which the changes to the CFR made by the rule document actually take place.

When inserting dates in an FR document, one has two choices: (1) a specific date and (2) a bracketed phrase that calls for the OFR to calculate a date if a date is unknown or uncertain. From a practical standpoint, a calculated date is often used because it is difficult to be sure the document's exact date of filing and publication until it actually gets to the OFR and the OFR staff has reviewed it. However, if a specific date is desired to secure the enforcement of the action or to extend existing temporary measures, it is better to specify a date in the document, rather than to use a bracketed instruction.

1. Effective dates must be very specific; if sections or paragraphs in the regulatory text have different effective dates from each other or from the rest of the rule, the DATES section must cover the effective dates of all sections affected by the rule. (See [Example 2](#))
2. Any temporary measure or delayed effectiveness must be specifically mentioned in the DATES section and must give the beginning and the ending date of the effectiveness period. (See [Example 3](#))
3. Do not use open-ended language, such as "until superseded." If the action is expected to be modified later, indicate that another document will be published in the FR to accomplish that. (See [Example 4](#))
4. All effective dates stated in the preamble should match exactly the dates that appear in the amendatory language. If the dates do not match, they are unacceptable to the OFR. This is particularly a problem in the case of interim rules or other temporary measures.
5. All effective dates for final rules should not precede the date of filing.
6. A final rule published after a temporary rule will indicate to the reader, that the text, as amended, is permanent. You may include in the DATES section a calculated or a specific date.

7. If you amend a temporary rule with another temporary rule, use very explicit language in the DATES section, for example: “The effective date of the regulations published at 67 FR 63926, December 12, 2002, and amended at 68 FR 3102, January 13, 2003, is extended from March 13, 2003, through June 10, 2003.” You must publish the extension before March 13, 2003.

8. If you respond to public comments on an **interim rule** in a subsequent final rule document, under the DATES caption, “This final rule is effective December 7, 2003.” Provide additional details in the SUPPLEMENTARY INFORMATION SECTION, the effective date of the final rule and the effective date of the interim rule that has requested the comments.

9. If a regulation is stayed indefinitely due to litigation or to some other reason, the regulation needs to be “reinstated into effect” with a new effective date. For example, “DATES: Section 635.69 was stayed indefinitely on October 1, 2000 (66 FR 1907, January 10, 2001), and is reinstated into effect effective September 1, 2003.” The ACTION line would read: “ACTION: Final rule; reinstatement into effect.” If no revisions are made to the text, no amendatory language is necessary.

10. In notices, the DATES caption may be omitted if a document contains no important dates.

**NOTE: Changes, stays, or reinstatements into effect of an effective date may trigger notice and comment and the 30-day delay in effectiveness requirements of the APA. Consult with a regional or GCF attorney to ensure that required actions are taken and appropriate language is included in the Classification section of the rule.**

#### *Applicability Date*

An applicability date is the date the agency expects the affected person to comply with the regulation. For NMFS, we insert these dates in the regulatory text. Applicability dates can be mentioned in the DATES caption, but they do not take the place of an effective date. (See

### Example 5)

IMPORTANT: Under the emergency action and interim measures provided by section 305(c) of the Magnuson-Stevens Act, an action can be effective for no more than 180 calendar days from the date of the publication of a document in the FR, with the possibility for extending the action for another 180 calendar days. Thus, it is critical that the final expiration date be no more than 180 calendar days from the date of publication. If a calculated effective date falls on a weekend or Federal holiday, the OFR will routinely make the effective date the next working day following the weekend or holiday. This creates the danger that the effective date of a rule issued under section 305(c) could be calculated by the OFR to be a date that would violate the Magnuson-Stevens Act. To avoid this, when sending such a rule to the OFR, specify an effective date that is no more than 180 calendar days from the date of publication of the rule, or use a fixed date.

### *The ADDRESSES Caption*

This section includes any address that a participant in a rulemaking process should know. All relevant details should be presented in the SUPPLEMENTARY INFORMATION section.

### *Public Commenting:*

1. Based on OMB's directive of March 1, 2004, any Federal Register document open for comment that is published only in the "Proposed Rules" or in the "Rules and Regulations" section **must contain** a reference to "www.Regulations.gov," the Federal e-Rulemaking Portal, as a means for public commenting electronically. This is to facilitate public access to and participation in Federal rulemakings.

Do not include a reference to "www.regulations.gov" in documents published in the "Notices" section because the "Regulations.gov" website does not post such documents, even if they are open for comment.

2. Any Federal Register document open for comment must provide for public commenting by e-mail. Refer to the appropriate Regional or Headquarters "Standing Operating Procedures for Accepting Electronic Comments" on how to establish the mailbox address for e-mail commenting.

3. The reference to "Regulations.gov" should be placed **after** the reference to the agency e-mail address for public commenting. If the ADDRESSES section contains two e-mail addresses, one for commenting and another one, for example, for obtaining supporting documents, then the e-mail address for obtaining supporting materials must be placed last.

A suggested template regarding public commenting is as follows:

**ADDRESSES:** You may submit comments by any of the following methods:

- E-mail: **[Insert e-mail address.]** Include in the subject line the following identifier: **[Insert the RIN number, docket number, or text of choice that identifies the subject Federal Register document open for comment.]**

- Federal e-Rulemaking Portal: <http://www.regulations.gov>.\*

- Mail: **[Insert mailing address for submitting paper, disk, or CD-ROM comments.]**

- Fax: **[Insert fax number.]**

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be submitted in writing to **[insert agency contact name and address]** and to David Rostker, OMB, by e-mail at [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or by fax to 202-395-7285.

\* In NMFS' proposed rules and rules open for comment, the reference "Federal e-Rulemaking Portal: <http://www.regulations.gov>" is a required language when using the suggested template.

When the suggested template is not used, the reference to "Regulations.gov" should be as follows:

**Comments may also be submitted electronically through the Federal e-Rulemaking Portal: <http://www.regulations.gov>.**

*Request for and Access to Additional Information:*

To obtain or view supporting documents, you may use a mailing address, fax, an e-mail address, or a web site.

*Meetings and Hearings:*

If you are announcing more than four meetings or hearings in a notice, place these addresses in the SUPPLEMENTARY INFORMATION section under the appropriate heading. Under ADDRESSES, mention only the city and state and let the reader know where to go in the preamble for the specific location.

For example:

**ADDRESSES: The meetings will be held in Peabody and Danvers , MA, and in Warwick, RI. See SUPPLEMENTARY INFORMATION for specific locations.**

Then, under the SUPPLEMENTARY INFORMATION, include a section with a heading:

***Meeting Dates, Times, and Locations***

If you include items to be discussed in the meetings, then say:

## *Meeting Schedules and Agendas*

### *The SUPPLEMENTARY INFORMATION Section.*

This section, the major part of the FR document, provides the regulatory history of the document; the basis for the rule and the purpose of its promulgation; in a final rule, the responses to comments received on a proposed rule and any changes from the proposed rule; and an adequate notice of the important issues bearing on the action.

The longer the SUPPLEMENTARY INFORMATION section, the more useful its logical organization becomes. Some determining factors to good writing are as follows: First, a prewriting stage would decide the scope and sequence of the materials to be included. (See [Example 6](#))

Second, good headings would invest the document with order and cohesion. (See [Example 7](#))

Last but not least, the language should be concrete, the examples specific, reference and cross reference citations should follow the stylistic requirement of the Federal Register, and all writing principles and rules of grammar must be observed. (See [Example 8](#))

### *Classification Section*

This section provides determinations and information related to compliance with the Magnuson-Stevens Act, Executive Orders, and other applicable laws, such as the Administrative Procedure Act (APA), National Environmental Policy Act, Regulatory Flexibility Act, Paperwork Reduction Act (PRA), and others.

1. In a document with PRA provisions, all the required burdens and requests for comments on the burdens must be stated in the Classification section.
2. For any rule that does not provide for prior notice and comment or for a 30-day delay in effectiveness, the Classification section should contain appropriate findings and supporting facts to explain the good cause for the waiving of notice-and-comment procedures required under the APA and the 30-day delay of effectiveness. For appropriate language, consult with the regional or GCF attorney.
3. Classification must always contain accurate terminology, current delegation of authority, and correct use of acronyms. Remember that the acronym (AA), like all acronyms, should be spelled out before its use, for example, "The Assistant Administrator for Fisheries, NOAA (AA), has determined that...."

### *The List of Subjects*

The List of Subjects must be included if the document contains regulatory text, but, if the document contains no regulatory text, the list can be omitted.

1. These terms are found in the "Federal Register Thesaurus of Indexing Terms", available at [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/thesaurus.html](http://www.archives.gov/federal_register/code_of_federal_regulations/thesaurus.html) These are key words that are used for indexing parts of the CFR. The terms are indented, arranged in alphabetical order, and written in uppercase initials.
2. Each rulemaking document should contain the entire list of terms associated with the CFR part



affected and approved by the OFR, not just those terms associated with the rulemaking document itself.

3. The terms "Freedom of information," "Privacy Act," "Reporting and recordkeeping requirements," and "Incorporation by reference" should be always included in the List of Subjects whenever they are used in any section of a part being amended.
4. If more than one part is being amended, a list of subjects should be included for each part.
5. To add a new term to the List of Subjects, contact the Liaison Officer who, in turn, will write to the OFR and request the addition; new terms will not be added automatically.

NOTE: You may insert one or two terms that are not part of the approved subjects but appear only once in the affected section of the part, as for instance "endangered and threatened species." Having done so, you should also know that these term, since they are not truly approved subjects, will not be picked up by the OFR's annual review of the list of subjects, and, thus, they will not be made available to the general public for research purposes.

### *The Authority Citation*

The citation of a legal authority for each rule and proposed rule or of an authority under which the agency issues a notice document is a requirement. Rules may continue or change the authority citation. (See [Example 9](#))

1. If a document adds or revises an entire CFR part, the authority citation must be placed directly after the table of contents of the part and before the regulatory text of the part. [Exception: If a CFR part has only one section, no table of contents is needed. In this case, the authority citation would come directly after the part heading.]
2. If a document adds or revises an entire CFR subpart, and that subpart has the same authority citation as the CFR part, the authority citation for the part must be set out in the first numbered amendatory instruction for the part.
3. If a document adds or revises an entire CFR subpart using a different authority citation from that used in the part, the authority citation for the subpart must be placed directly after the heading to the subpart and before the regulatory text of the subpart.
4. If a document amends only certain sections within a CFR part, the authority citation for the part must be set out as the first numbered amendatory instruction for the part. [This is the most usual case.]
5. In cases where there is a general rulemaking authority for the part and specific authority citations for certain sections, the specific authority citations should appear in the amendatory instructions to those sections.

### *Amendatory Language*

The type of action verbs and syntax one uses to tell the OFR staff what to do to change a certain CFR part constitutes the type of language we call amendatory language. It must cite the specific CFR part being amended and the complete section and paragraph reference, for example: "In § 660.304, paragraphs (a)(1)...." (See [Chapter 3](#))

### *Regulatory Language*

This is the language one uses to write regulations. In a Federal Register document it follows the amendatory language and, upon the effectiveness of the action, the regulatory text is codified and becomes a part of the CFR. (See [Chapter 4](#))



## **PART II: FEDERAL REGISTER DOCUMENT**

### ***HOW IS IT STRUCTURED?***

## Chapter 3: Amendatory Language

### I. Terminology

### II. Amendatory Order

#### I. Terminology

Because the amendatory instruction indicates to the OFR staff the text that needs to be amended, it is imperative that the instruction is precise, explicit, and accurate and that the terminology it uses is OFR specific. Do not rely on the OFR to interpret ambiguous instructions. The amendatory language recognizes only the following action verbs as valid, do not use others:

To amend means to change an existing CFR unit. It is an introductory term only, and must be followed by a complementary verb specifying how the CFR unit is to be changed. For example: “Section 648.80 is amended by revising paragraphs (c) and (e)(2) to read as follows: ”

To revise means to change the designated text in its entirety, without having to specify how you change it. You can say, “In § 648.80, paragraphs (c) and (e)(2) are revised to read as follows:”

To add means to insert a unit of new material, such as a paragraph or section into the CFR.

CAUTION: Be sure that the unit being added does not already exist. If it does, then the existing unit must first be removed or redesignated before the new unit is added.

To lift a stay means to restore the effectiveness of CFR text that has been stayed or suspended.

(See [Example 10](#))

To reinstate into effect means to restore the effectiveness of CFR text that has been stayed or suspended.

To remove means to take out an existing CFR unit; do not use the term "delete."

NOTE: If the removed unit is a definition, and definitions are normally in alphabetical order, the remaining definitions would not need to be redesignated to fill the space left by the removal.

However, if you remove a designated unit, such as paragraph (c), from a section containing paragraphs (a) through (d), then you need to redesignate the remaining paragraph (d) as paragraph (c) to fill the void left by the removal. This must be done in the amendatory instruction; the OFR will not do this automatically. Alternatively, you can remove and reserve paragraph (c). But remember to revise any references to the old paragraph (c) to read paragraph (d)--the OFR will not do this automatically.

To republish means to publish again unchanged CFR text for the convenience of the user.

NOTE: Because republishing adds to the length and cost of publication, and because it can inadvertently introduce errors into the CFR, it should be done only when there is clear benefit.

To reserve means to maintain continuity of the structural organization of the CFR when a CFR unit is removed and to set aside a space for future action. For example: “Subpart C is removed and reserved.”

NOTE: This is particularly useful when there is an expectation that a CFR unit will be needed at a later time, or when a CFR unit is being removed and the designation of other units is to remain unchanged.

To redesignate means to transfer a CFR unit to a vacant position and to assign it a new designation; do not use the term "to renumber." If the newly redesignated unit is also revised, this must be stated in the amendatory language.

To suspend means to defer a regulation temporarily or indefinitely. The amendatory language must cite the CFR unit affected. The content of the CFR is not changed, but the suspended portion

of the regulations is not currently in force. NMFS uses this especially in interim rules to suspend temporarily, existing regulatory text in such a way that new text that is being added temporarily will be effective. In order to restore the regulatory text before the end of the suspension period, you would need to “lift” the suspension and include appropriate amendatory language. Otherwise, the text of a temporary suspension will reappear (i.e., become effective again) when the temporary suspension expires. In either case, consult with the Regs Unit to ensure that appropriate language is used for your particular situation.

You may use the amendatory terms “add” or “suspend” but you cannot use “remove, revise, or redesignate in temporary regulations. In either case, consult with the Regs Unit to ensure that appropriate language is used for your particular situation.

(See [Comment 3](#))

To withdraw means to indicate, in a proposed rule, that a previously published proposed rule will not be issued as a final regulation or, in a final rule with a pending effective date, that the final rule will not go into effect.

NOTE: In both cases, "withdrawn" refers to regulations that never became effective. In the instance of a final rule, once the text has become effective, it must be "removed," rather than "withdrawn."

NOTE: Once a proposed rule has been published, it should be followed by a final rule or withdrawn, to achieve closure of the regulatory process. If this is not done, the public has the expectation that a final rule will follow at some time.

To correct means to rectify a clerical or typographical error made by the agency in a published document before the document has become effective. The action verb "to correct" is to be used only in correction documents.

To correctly amend means to change text in the e-CFR or CFR after the document has become effective.

In general,	Do not say:	Say:
	modify the definition	revise the definition
	delete the paragraph	remove the paragraph
	renumber the paragraphs	redesignate the paragraphs
	include the new sentence	add the new sentence
	omit the texts	remove the text
	substitute the words	replace the words
	the former paragraph	the newly redesignated paragraph

## II. Amendatory Order

Within a rule document, amendments follow the CFR codification order:

1. If we amend 50 CFR parts 611, 672, and 675, we first list the amendatory instructions for part 611, followed by those for part 672, and, then, by those for part 675.
2. If we amend more than one section in the same part, we present the amendments to each section in separate, consecutively numbered instructions (e.g., amendments to § 672.2 before amendments to § 672.5, before amendments to § 672.24, etc.).
3. If we make changes to a single section, we use a single amendatory instruction for each section being amended; if we present several amendments, we do so in a logical order.

For example, if we add, revise, remove, and redesignate paragraphs, we should first remove the paragraph so as to make space available; then move up the existing paragraphs by redesignating them; then add the new paragraph; and finally revise the existing or newly redesignated paragraph to read as follows. (See [Example 11](#))

4. Exceptions to the "one-instruction-per-section" rule mentioned above are as follows:

a. If we revise, add, or remove two or more parts or sections, we can direct the OFR staff with a single amendatory instruction.

For example:

Parts 672 and 675 are added to read as follows:

[Table of Contents and text of part 672 and Table of Contents and text of part 675 would follow.]

Or

Sections 675.20 through 675.25 are revised to read as follows:

[Text of §§ 675.20 through 675.25 would follow]

b. When we change the same text in several sections, such as in a nomenclature change, we first identify the section numbers and follow them up with the bracketed word "[Amended]." Then we write the amendatory instruction directing the OFR staff to the changes. We display no regulatory text.

For example:

§§ 672.5, 675.3, and 678.9 [Amended]

In §§ 672.5(b), 675.3(b), and 678.9(c), the word "Director" is removed and the words "Acting Director" are added in its place.

5. If we are drafting a proposed rule that will potentially amend regulatory text implemented through another proposed rule that has not yet become final, we use amendatory language similar to the following:

Part 679, which was proposed at 68 FR 17800 on April 28, 2003, would be amended by revising § 679.23 to read as follows:

6. Prewriting. You should mark up a draft of the existing text before writing the amendatory instruction to make sure that a logical progression is followed and that the result is the one you desire.

After you have written the instructions, read them again and mark up another copy of the existing text. Did the instructions result in the changes that were desired? Was there any ambiguity?

Remember that, if the CFR text has been amended since the publication of the last CFR, it is the amended text that must be used as the starting point for the next amendment, not the text published in the CFR.

If you are aware of the existence of any other rule that may become final before the effective date of the rule you are drafting and that may amend the same regulatory text being amended by your rule, you must modify your rule accordingly before it becomes effective.

## **Chapter 4: Regulatory Language**

### **I. Numbering and Designating Regulatory Text**

### **II. Definition Section**

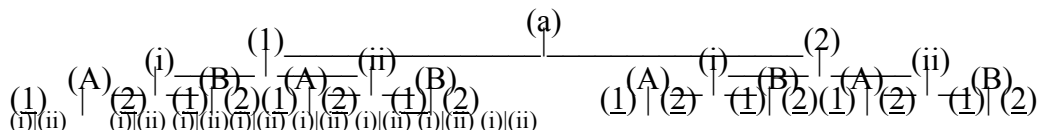
### III. Headings

Because regulatory text will become codified in the CFR, it must be drafted exactly as it is to appear in the CFR and must conform in structure and nomenclature to the CFR requirements. The e- CFR is an on-line database that maintains a cumulative record of changes to each CFR part once the action has become effective and through which the CFR text is updated every 2 to 3 business days.

## I. Numbering and Designating Regulatory Text

We number parts and sections and designate paragraphs:

1. A part number in the CFR consists of the number of the CFR title and the part number preceded by the word “part” (e.g. 50 CFR part 679).
2. A section number within each part consists of the section number, a period, and a sequential number (e.g., § 679.1, § 679.2, etc.). The sections within each subpart should be sequentially numbered. To preserve the sequential numbering, a section can be "reserved" to hold its place in anticipation of future text to be added or to avoid redesignation of other sections, should a section be removed. It is acceptable to begin the next subpart by skipping section numbers in order to reserve place for future sections. For example, subpart A could contain §§ 679.1 through 679.9, and subpart B could contain §§ 679.20 through 679.27. [In fact, this is the norm for NMFS regulations.]
3. A paragraph is divided into subordinate paragraphs and designated with a letter or a number. Thus, we “designate” a paragraph not “number” or “letter” it.
  - a. When you divide a paragraph into subordinate paragraphs, remember the rule of two: Always divide one part into at least two subparts, never into one. The following is the subordination system applied to a Federal Register paragraph:



- b. To refer clearly and unambiguously to regulatory text when you amend the CFR is critically important. When we revise a paragraph that is divided into subparagraphs and we want to revise only the text of the mother paragraph, as opposed to its subordinates, we revise the introductory text. For example: if paragraph (a) is divided into (a)(1) and (a)(2) but we want to revise only the text under paragraph (a), we actually revise (a) introductory text; if we want to revise paragraph (a) in its entirety, we revise paragraph (a).
- c. Each paragraph in a section must be indented separately and designated for reference. No paragraph, except the introductory and conclusive, should be left undesignated. (See [Example 12](#))

## II. Definition Section

1. Underline the term of the definition, and list definitions in alphabetical order; the paragraph

that defines the term requires no designation.

2. Number, (as in (1), (2), (3), etc., not lettered as in (a), (b), (c), etc.) all subordinate (see Example 13)

3. Include in the Definition section only text that defines; substantive regulatory provisions should be handled elsewhere in the regulations.

4. List only the definitions that are actually used in the part, and make sure that all references, particularly after a part has undergone several amendments, are current and correct.

### **III. Headings**

Provide a brief stand-alone heading for each CFR unit, (part, subpart, and section). Like in any other text, a change in a heading requires an amendment. If the entire section is being revised, there is no need to make specific reference to the heading because the heading is considered part of the section and can be revised when set out with the section text.

1. Part headings should contain subject terms that identify the agency's regulations in a manner consistent with the terms used by other agencies to identify similar material.

2. Subpart headings may be used to separate ideas within a part (e.g., General Provisions, Management Measures), but are not required by the OFR.

3. Section headings identify the particular regulatory provisions they contain (e.g., Fees and permits, Gear restrictions, etc.).

4. A paragraph may start with a lead-in phrase that names the main idea of the paragraph. This word or phrase, which is considered a heading rather than an introductory text, is underlined and followed with a period. Paragraph headings may be used, but are not required.

5. When the heading runs into the heading of the next paragraph, follow it with a double dash and place a period at the end of the heading of the second paragraph, for example:

“(1) Notices prohibiting directed fishing--(i) Scheduling. Applicable after December 31, 2002. [Additional text follows]”

6. When a paragraph heading or an introductory text introduces a list of items or paragraphs, it is generally followed by a colon, and the first list item starts in the following line. Generally, semicolons are used when the list is made up of short text items, and periods are used when the list is made up of complete sentences, but either format is acceptable.

7. Amendments to section headings do not require amendments to the table of contents. Unless an entire part or subpart is added or revised, the OFR will make the necessary changes to the table of contents.

## **Chapter 5: Amending the CFR**

### **I. Adding or Revising a Part or a Subpart**

### **II. Amending a Section**

### **III. Asterisks**

### **IV. Amending Paragraphs**

### **V. Table of Contents**

### **I. Adding or Revising a Part or Subpart**

1. To add or revise an entire part, you must work with the following elements:

a. Mandatory language;

b. Part heading;



- c. Table of contents;
  - d. Authority citation; and
  - e. Regulatory text.
2. To add a new part, first contact the agency's Liaison Officer who will send a letter to the OFR requesting the assignment of a part number. After the part number is assigned, the agency provides the title and the authority citation for the part.
  3. To add or revise an entire subpart, use the same process as that for the addition or revision of a part. Exception: if the subpart has a different authority citation from that of the part, place the authority citation after its table of contents.

## **II. Amending a Section**

1. To add or revise a section, use the following elements:
    - a. Part heading;
    - b. Authority citation;
    - c. Amendatory language;
    - d. Section heading; and
    - e. Regulatory text
  2. Adding or revising an entire section or paragraph, unlike adding or revising an entire part or subpart, requires no table of contents no authority citation since the authority is cited by the first amendatory instruction.
- To add an entire section to a part that contains subparts, identify in the amendatory instruction the subpart that will contain the new section, for example: "A new § 625.26 is added to subpart B to read as follows:."
3. List the section number and section heading and set out the text for the new section.
  4. To change the section headings in the table of contents, you are not required to write an amendatory instruction yourself because this change is made by the OFR staff.

## **III. Asterisks**

1. Use three asterisks in a row, each separated by one space (\* \* \*), when--
  - a. You need to amend subordinate paragraphs (that is, to indicate that higher level paragraphs remain in place unchanged) or
  - b. You need to amend only part of a paragraph (that is, to indicate that the rest of the paragraph remains in place unchanged).
2. Use five asterisks in a row, separated by one space each (\* \* \* \* \*) to indicate that one or more paragraphs are not being changed. The five asterisks always appear on a line by themselves.

## **IV. Amending Paragraphs**

1. To amend only a certain number of paragraphs in a section, as opposed to the entire section, first, write an amendatory instruction stating exactly which paragraphs are changed; second, identify the section number and section heading; and, third, set out only those paragraphs that you are amending. Use asterisks to indicate omitted text that remains unchanged.

For example:

In § 301.19, paragraph (e)(1)(i) is revised and paragraph (f) is removed and reserved as follows:

§ 301.19 Fishing by United States treaty Indian tribes.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(i) Ceremonial and subsistence fishing for halibut by treaty Indian tribes in subarea 2A-1 is permitted with hook and line gear from January 1 to December 31 or until 10,000 pounds (4.5 metric tons) have been taken and the fishery is closed by the IPHC.

\* \* \* \* \*

(f) [Reserved]

\* \* \* \* \*

2. To remove, suspend, or redesignate paragraphs or to remove or add words as in a nomenclature change or in any other way that does not require the setting out of text, set out the section number followed by the bracketed word “[Amended]” before the amendatory instruction. For example, note this nomenclature change:

§ 685.4 [Amended]

In § 685.4, in paragraphs (b)(7), (b)(8), and (c)(9), the words "billfish, tuna, oceanic sharks, and associated fish" are removed and the words "Pacific pelagic management species" are added in their place.

3. To add or remove the same element in more than one section, use one amendatory instruction, and place all of the section numbers before the amendatory instruction followed by the bracketed word “Amended,”

For example:

§§ 685.5, 685.8, and 685.22 [Amended]

In addition to the amendments set out above, in 50 CFR part 685 remove the words "billfish or associated species" and add, in their place, the words "Pacific pelagic management unit species" in the following places:

a. § 685.5(a) and (b);

b. § 685.8(a); and

c. § 685.22.

4. The sentence is the smallest unit you can revise and set out as regulatory text. When, for instance, you revise the first sentence in a 5- sentence paragraph, use three asterisks to show that the remaining four sentences remain unchanged.

For example:

In § 652.9, the first sentence of paragraph (a) is revised to read as follows:

§ 652.9 Facilitation of enforcement.

(a) The Regional Director or his designee may require vessel owners or operators to notify NMFS prior to the departure for or return from a fishing trip for surf clams or ocean quahogs. \* \*

\*

\* \* \* \* \*

## **V. Table of Contents**

1. A table of contents is required in a document when it --
  - a. Adds a new part or subpart (if the part or subpart contains at least two sections), or
  - b. Revises an existing part or subpart in its entirety.
2. Changes to a table of contents should not be presented in a document that adds or amends one or more sections; these changes are made by the OFR staff when the amendments are included in the CFR.

## **Chapter 6: Correcting Your Document**

### **I. Correction: Correcting the Federal Register**

### **II. Correcting Amendment: Correcting the e-CFR**

### **III. Nomenclature Changes**

This chapter describes two types of documents used to address agency-made errors in FR and CFR documents: (1) Corrections, and (2) Correcting Amendments. No other terminology, such as “technical amendment,” should be used. Corrections and Correcting Amendments are signed at the same level of signature authority as the document being corrected and are published in the same FR section as the document being corrected (e.g., a correction to a proposed rule will appear in the Proposed Rule section of the FR.). Corrections and Correcting Amendments may have APA-implications, even if they appear to be simply corrections to citations, typos, or inadvertently omitted information. Depending on the type of correction, further rulemaking (i.e., proposed and final rules, temporary rule, etc.) may be necessary unless a good cause waiver or other APA exception applies.

### **I. Correction: Correcting the Federal Register**

#### *Definition*

A correction is a change executed in a document that has published in the Federal Register (FR) before the document has become effective.

*How to make a correction.* A correction document corrects a mistake, a word, a phrase, or a number that you either inadvertently wrote in or inadvertently omitted from a FR document.

**Because corrections may trigger APA requirements, it is important to determine whether further rulemaking is necessary or whether good cause waivers or other APA exceptions apply. The following exemplifies the style of a correction document:**

1. The SUBJECT heading of the correcting document should be the same as that of the document it corrects, except that it should end with the word Correction. For example: “American Lobster Fishery; Correction.”.
2. The ACTION line should read: “Correction to a final rule.”, “Final rule; correction”, “Correction to an interim rule.”, or some other heading depending on the type of the document it corrects.
3. The SUMMARY should indicate that the document contains corrections to a final rule and identify the document by the date of publication, not by the FR cite.
4. DATES: The effective date of the correction is usually the same date of the document it corrects.
5. FOR FURTHER INFORMATION CONTACT should be included in all FR documents.
6. SUPPLEMENTARY INFORMATION : Under the section Background, identify the FR publication the correction document corrects by giving the date of publication, volume and page of the FR issue, and the Federal Register docket number. Briefly describe the action of the document it corrects, and mention that an error exists and must be corrected.
7. **The Classification section should include findings and facts to support any good cause waiver of or exception to the APA’s notice and comment and to the 30-day delay in effectiveness requirements. Consult with a regional or GCF attorney regarding whether good cause waivers or exceptions are applicable or whether further rulemaking is necessary.**
8. Under the heading “Correction,” set out the correction as follows:

#### **Correction**

Accordingly, the final rule (or the interim rule), published on June 12, 2003, at 67 FR 40232, to be effective July 12, 2003, is corrected as follows:

On page 40236, column 1, line 8 of paragraph (ss), correct the reference “§ 660.33(h)” to read as “§ 660.33(i).

[This correcting instruction gives (a) the publication date, (b) the page number of the FR issue, (c) the number of the column, and (d) the number of the line. If you have more than one correction, number your correcting instructions.]

## II. Correcting Amendment: Correcting the e-CFR

### *Definition*

A correcting amendment is a change in the text of the electronic Code of Federal Regulations ( e-CFR) after the document has become effective.

*How to Make a Correcting Amendment.* A correcting amendment corrects an error in the e-CFR text. **Because correcting amendments may trigger APA requirements, it is important to determine whether further rulemaking is necessary or whether good cause waivers or other APA exceptions apply.**

**When drafting a correcting amendment, if the error is a misspelled word or a misquoted number, incorporate the correction** into the amendatory instruction and place the section number before the instruction. You write the section number and, instead of the section heading, you bracket the word “[Corrected].” If you have more than one correction, number your amendatory instructions.

If you correctly amend by revising, adding, or removing text that has mistakenly left in or left out, you place the section number and section heading after the amendatory instruction and display the text showing paragraph designation and stars, the same style as that of a rule amendment.

The following exemplifies the style of a correcting amendment:

1. The SUBJECT heading should be the same as that of the document it corrects, ending with the word “Correction” and followed by no punctuation:

Fisheries of the Exclusive Economic Zone Off Alaska; Recordkeeping and Reporting Requirements; Correction

2. The ACTION should read: “Final rule; correcting amendment.”

3. The SUMMARY should indicate that the document contains corrections to a final rule, for instance, and identify the document by title, publication date, and FR Docket number.

4. DATES: The effective date is usually the same date of the document it corrects.

5. FOR FURTHER INFORMATION CONTACT should be included in all FR documents.

6. SUPPLEMENTARY INFORMATION identifies briefly the action of the document it corrects, mentions the existence of the error, and indicates the need for correction. Here, you may include any background information that you believe will help the reader.

**7. The Classification section should include findings and facts to support any good cause waiver of or exception to the APA’s notice and comment and to the 30-day delay in effectiveness requirements. Consult with a regional or GCF attorney regarding whether good cause waivers or exceptions are applicable or whether further rulemaking is necessary.**

8. List of Subjects contains only the part, or parts, affected.

9. Signature block includes the date, the signer’s name, and the signer’s title.

## III. Nomenclature Changes

*How to make a nomenclature change.* If a term or phrase that appears frequently throughout a CFR unit is to be changed (e.g., if the acronym “EEZ” were to change), the change can be accomplished in a single amendatory instruction. In the following example the same revision occurs in four sections of part 216:

§§ 216.2, 216.3, 216.6, and 216.7 [Amended]

In §§ 216.2, 216.3, 216.6, and 216.7, remove the reference “the Act” and add “MMPA” in the following places:

<u>Part/Sec. Paragraph</u>	<u>Frequency</u>
a. § 216.2	1
b. § 216.3, introductory text	1
c. § 216.6 (a)	1
d. § 216.6(b)	1
e. § 216.7 (a)	3

If the changes are numerous, the change can be accomplished through a table that specifies every CFR unit in which the term appears. The OFR requires a marked-up copy of the appropriate text if the changes are numerous.

## **Chapter 7: Documents Containing Information Collection Requirements**

### **I. Publishing a Document Before OMB Approval**

### **II. Publishing a Document Announcing OMB Approval**

OMB control numbers for all NOAA information collection requirements are collected and published in 15 CFR part 902, as required by the Paperwork Reduction Act of 1980. A final rule document in which new reporting and recordkeeping requirements are added to the CFR should also amend 15 CFR part 902 to add the OMB control numbers. It is the agency's responsibility to amend 15 CFR part 902 as necessary; the OFR does not do this automatically. Judging from the experience of some other agencies, there are possible legal ramifications of not publishing the OMB approval numbers in 15 CFR part 902.

### **I. Publishing a Document Before OMB Approval**

For regulatory provisions that require OMB approval of collections of information, an OMB approval number must be published before the provision is effective. If an OMB control number has not yet been received, the rule can still be published, but those provisions requiring OMB approval cannot become effective until the OMB number is issued and published in the FR. The final rule should state this intent by including the following language:

1. Under the DATES section:

DATES: This rule is effective July 24, 2003, except for the exemption registration provision in § 227.72(e)(8)(i), which requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) and which is not yet effective. When OMB approval is received, the effective date of § 227.27(e)(8)(i) will be **published** in the Federal Register. Written comments regarding collection of information requirements are due 30 days from the date of publication of this rule.

2. Under the ADDRESSES section:

ADDRESSES: Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements may be sent to [insert agency contact name and address here] and to David Rostker at David [Rostker@omb.eop.gov](mailto:Rostker@omb.eop.gov) or by fax: (202) 395-7285.

3. The FOR FURTHER INFORMATION CONTACT section should contain only the name and telephone number of the person in charge of the given action.

4. In the Classification section for a final rule document with a PRA provision yet to be approved, say something similar like the following:

Sections 644.7(g) and 644.24(b) of this rule, concerning documentation requirements for seafood dealers or processors possessing billfish, contain a collection-of-information requirement subject to the Paperwork Reduction Act. A request to collect this information has been submitted to OMB for approval. The public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this reporting burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS and OMB (see ADDRESSES).

5. After the “burdens” required by the affected parties, include the Notwithstanding paragraph, which reads as follows:

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

## **II. Publishing a Document Announcing OMB Approval**

A document that announce the effective date of OMB numbers must be published before the date of the effectiveness of the approved paragraph. Use the following as an example of document containing the appropriate language:

ACTION: Final rule; effective date of OMB control numbers.

SUMMARY: This rule makes effective the collection-of-information requirements in the final rule implementing procedures for testing bycatch reduction devices published in the Federal Register on June 5, 2003. OMB has approved those collection-of-information requirements.

DATES: The collection-of-information requirements in § 227.27(e)(8)(i) are effective [insert date 30 days from the date of publication in the FEDERAL REGISTER].

In the SUPPLEMENTARY INFORMATION section state when the original rule published; include the date, page, and FR year. Explain that the rule was published prior to OMB's approval. Include: the CFR section and paragraph that were approved, the date OMB approved the information collection requirements, and under what OMB control number is effective.

### **Classification**

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0648-0207. [Insert brief summary of requirements and burden.] Send comments regarding these burden estimates or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS and OMB (see ADDRESSES). [Make sure the appropriate addresses are included in the ADDRESSES section.]

List of Subjects in 15 CFR Part 902  
Reporting and recordkeeping requirements.

### Signature Block

The following is an example of the regulatory text of a document revising the OMB table:

15 CFR Chapter IX

PART 902 [insert text of part heading here in all caps].

1. [set out the amendatory instruction for the authority citation here.]  
Authority: [set out the text to the authority citation here.]

2. In § 902.1, paragraph (b) table, under 50 CFR, an entry is added in numerical order to read as follows:

§ 902.1 [insert text to section heading here].

\* \* \* \* \*

(b) \* \* \*

CFR part or section where the information  
collection requirement is located

Current OMB control number (all  
numbers begin with 0648-)

*	*	*	*	*
50 CFR				
*	*	*	*	*
227.27(e)(8)(i)			-0345	
		*	*	*
*	*			

NOTE: An OMB Control Number may be included parenthetically at the end of the appropriate



section of the regulatory text; for example: “(Approved by the Office of Management and Budget under control number 0648-0207)”

## **Chapter 8: Cross References**

### **I. To Another Agency's Regulations**

### **II. To Your Agency's Regulations**

#### **I. To Another Agency's Regulations**

An agency may cross reference the regulations of another agency only if the OFR finds that the reference meets one of the following conditions:

1. The reference is required by court order, statute, Executive Order or reorganization plan;
2. The reference is to regulations promulgated by an agency with the exclusive legal authority to regulate in a subject matter area, but the referencing agency needs to apply those regulations in its own programs;
3. The reference is to test methods or consensus standards produced by a Federal agency that have replaced or preempted private or voluntary test methods or consensus standards in a subject matter area; or
4. The reference is to the departmental level from a subagency.

#### **II. To Your Agency's Regulations**

Cross References to Your Agency's Regulations. An agency may refer to its own regulations, but, in so doing, it must not modify them (e.g., 50 CFR part 672 can cite 50 CFR part 675, but part 675 can be changed only through an amendment to part 675).

1. You can refer only to regulations that have current regulatory effect. If a CFR text has been revised, removed, or its effectiveness has otherwise lapsed, it can be restored only through a rule document.
2. The language for cross referencing CFR unit designation is specific and proper. The following language and format will help you from citing references correctly:
  - a. Reference to a different CFR title:  
In title 50, when citing--  
--title 15, chapter I ... write: "15 CFR chapter I"  
--title 15, part 2 ... write: "15 CFR part 2"  
--title 15, section 5.2 ... write: "15 CFR 5.2"  
--title 15, § 5.2, paragraph (a) ... write: "15 CFR 5.2(a)"
  - b. References within the same CFR title:  
--In title 50 chapter VI, when citing chapter II ... write: "chapter II of this title"  
--In 50 CFR part 216 (chapter II), when citing 50 CFR part 625 (chapter VI), write ... "part 625 of this title"  
--In 50 CFR 625.2 (chapter VI), when citing 50 CFR 216.24 (chapter II), write ... "§ 216.24 of this title"
  - c. References within the same chapter:  
--In 50 CFR part 642, when referencing 50 CFR part 620 (both parts are in chapter VI of title 50), write ... "part 620 of this chapter"  
--In 50 CFR 675.4, when citing subpart A of part 672, write ... "part 672, subpart A of this chapter"

--In 50 CFR 675.4, when citing 50 CFR 672.5, write ... "§ 672.5 of this chapter"

d. References within the same part:

--In 50 CFR 680.20, when citing subpart A of 50 CFR part 680, write ... "subpart A of this part"

--In 50 CFR 680.20, when citing 50 CFR 680.22, write ... "§ 680.22"

--In 50 CFR 680.20, when citing 50 CFR 680.22(a), write ... "§ 680.22(a)"

--In 50 CFR 680.20, when citing Appendix A, write ... "Appendix A of this part"

e. References within the same section:

--In paragraph (a), when citing paragraph (b), write ... "paragraph (b) of this section"

--In paragraph (a), when citing paragraph (b)(1), write ... "paragraph (b)(1) of this section"

--In paragraph (a)(1), when citing paragraph (a)(2), write ... "paragraph (a)(2) of this section"

--In paragraph (a)(1)(i), when citing paragraph (a)(1)(ii), write ... "paragraph (a)(1)(ii) of this section"

## **Chapter 9: Incorporation by Reference**

### **I. Purpose**

### **II. Eligibility**

### **III. Requesting Approval**

### **IV. Drafting Requirements for Incorporation by Reference**

### **V. Centralizing the Incorporation-by- Reference Content**

### **VI. Revising Incorporation by Reference**

### **I. Purpose**

Incorporation by reference allows agencies to comply with the requirement to publish regulations in the FR by referring to materials already published elsewhere. The legal effect is that the materials incorporated by reference are treated as if they were published in the FR. This is not the same as referencing other CFR text.

### **II. Eligibility**

1. The Director of the OFR is authorized to decide when an agency may incorporate material by reference. Material is eligible if it--

a. Is published data, criteria, standards, specifications, techniques, illustrations, or similar material;

b. Is reasonably available to and usable by the class of persons affected by the publication;

c. Does not reduce the usefulness of the FR publication system;

d. Benefits the Federal Government and members of affected classes; and

e. Substantially reduces the volume of material published in the FR.

2. Materials published previously in the FR or in the United States Code (U.S.C.) are not considered appropriate for incorporation by reference.

3. Incorporation by reference of materials published elsewhere by the same agency is prohibited under 1 CFR 51.7(b), because to do so would potentially violate the intent of the APA. That is, an agency could potentially use incorporation by reference of its own materials to avoid publication of materials for public review and comment.

4. Forms are explicitly prohibited from incorporation by reference under 5 U.S.C. 552(a)(1)(C). Forms do not need to be published in the OFR at all, unless there is a special reason to do so.

5. When state statutes are incorporated by reference, the OFR requires that a Washington, DC,

area address be provided for the Agency. That is, the OFR address must be part of the statement of availability of the incorporated reference; a Regional Office address may be included, but there must also be a Washington area office address provided, and the material incorporated by reference must be maintained on file in that office for inspection by the public.

### **III. Requesting Approval**

1. A written request for the incorporation by reference must be made to the Director of the OFR at least 20 working days before the final rule document is submitted to the OFR for publication.

The request must include:

- a. A letter requesting approval of the incorporation.
  - b. A copy of the material to be incorporated.
  - c. A copy of the final rule document that uses the proper language of incorporation.
2. The OFR will notify the requesting agency of approval/disapproval within 20 working days after the agency has met all the requirements listed above.

### **IV. Drafting Requirements for Incorporation by Reference**

1. Statements of incorporation by reference contained in regulatory text must meet specific drafting standards. Each statement must:

- a. Include the words "incorporation by reference";
- b. Identify the standard and/or material to be incorporated, including the title, date, edition, author, publisher, and identification number of the publication;
- c. Contain a statement of availability stating where and how copies may be examined and obtained; and
- d. Refer to 5 U.S.C. 552(a) or include a statement that the Director of the OFR approves the incorporation by reference.

2. An example of acceptable regulatory text for incorporation by reference follows:

Product samples will be analyzed in accordance with the "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), Fourteenth Edition (1984), section 18.004, p. 331, plus sections 32.059 and ..... , which are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the AOAC methods may be obtained from AOAC, 1111 North Nineteenth Street, Arlington, VA 22209. Copies may be inspected at the NMFS Northeast Regional Office (see ADDRESSES) or at the Office of the Federal Register, 800 North Capitol Street, NW., room 700, Washington, DC 20002.

The preamble of the final rule document must make reference to incorporation by reference in two locations:

1. The DATES caption must include an approval statement that indicates the effective date of the incorporation by reference as approved by the Director of the Federal Register. For example:

DATES: This rule is effective. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of \_\_\_\_\_ .

2. The List of Subjects in the SUPPLEMENTARY INFORMATION section must also include the term "Incorporation by reference" for each part affected.

## **V. Centralizing the Incorporation-by-Reference Content**

If a regulation contains numerous (10 or more) incorporations by reference within a part, the incorporation by reference language can be centralized in one place within the regulations. If this approach is taken, it is recommended that the incorporation by reference language be located in a separate section titled "Incorporation by Reference" or "Reference Material," and that the incorporation by reference material be displayed in a table format. However, remember that any such tables must be maintained over time and updated if any changes are made in the location of the materials incorporated by reference. See 49 CFR 171.7(a) for an example of such a table.

## **VI. Revising Incorporation by Reference**

1. An agency that needs to update references to material incorporated by reference must:
  - a. Publish notice of the change in the FR and amend the CFR;
  - b. Ensure that a copy of the material incorporated by reference, as amended or revised, is on file at the OFR and all other sites of availability; and
  - c. Notify the Director of the OFR in writing that the change is being made.
2. If the reference does not go into effect or is removed from the OFR, the agency must notify the Director of the OFR in writing within 5 working days.

## **Chapter 10: Tables and Figures**

### **I. Table: Parts**

### **II. Table: Types**

### **III. General Procedures for Tables and Figures**

Although tables do not constitute the best format for search and retrieval in today's technology, they are good displays of systematically organized data. They are easy to read and easy to understand if they are designed carefully.

Our goal is to compose all tables and send them to the OFR as certified text in order to maximize the agency's cost benefits. But, for this to happen, writers must generate tables that are compatible with the coding methods of GPO applications. When the format of the table is in conflict with the GPO MicroComp composing perimeters, the Unit sends the table as "camera ready" and pays higher rates for the service. Often, if non-compatible tables are interspersed throughout the document, the unit will send the entire document as "WordPerfect", costing the agency considerably more to publish.

## **I. Table: Parts**

1. Title. The table title goes in uppercase initial and is left unpunctuated. Titles are desirable but not required.

2. Boxhead. This section displays the headings and subheadings:

Heading 1

Heading 2

Heading 3

3. Columns. Columns are designated as figure columns or reading columns. In the table, the function of the column dictates the position of the columns in the table.

Tracing column. A tracing column is considered a figure column and is used in wide or parallel tables. This column can be only the first column, in which case it pushes the stub in the second-column position. In this position, the stub is always a reading column.

Stub column. A stub column is usually the first column and contains the subject to which the data across the table pertains. For tables to be clear, stubs should read across. A stub column can be a figure or a reading column.

Figure column. A figure column contain the data cells. No cell should be left blank; instead, if the information is not applicable, it should read “NA”; if the amount is zero, it should read “0,” not left blank.

Reading column. A reading column contain cells with words, sentences, or paragraphs; unless suppressed, leaders follow the reading text.

4. Gutter. A gutter is the space between cells.

5. Leaders. Leaders are the dots that lead you from one column to the other.

## II. Table: Types

If/Then tables present regulatory text in a columnar format.

The heading of the column reads logically into each entry of the table to form a complete thought.

Designate each entry in the table (i.e., use the appropriate paragraph designation; do not exceed the 6<sup>th</sup> level.)

Sample of an IF/Then Table:

(ii) \* \* \*

If the harvest quoted is under .....	Then, record the....	Reference
(A) CDQ program	CDQ group number	Subpart C to part 679
(B) Exempted fishery program	Exempted fishery permit number	§ 679.26
(C) Research program	Research program permit number	§ 600.745 (a) of this chapter

## III. General Procedures for Tables and Figures

### *Tables*

1. If a table belongs to the part, place it at the end of the CFR part. If your table is submitted to the OFR as a copy to be photographed, in the electronic copy (that is in your disk), insert at the end of your document the statement “At GPO, insert Table to the Part [the number of the part] here”.
2. If your table belongs to a section paragraph but is submitted to the OFR as a copy to be photographed, in your electronic copy, insert in the place where the table is to appear the statement “At GPO, Insert Table [the number of the table] here.”.
3. Make sure that photographed matter must be clear, without smears and that data appears on a light background.
4. Paginate tables in light pencil and place the page number on the back, at the bottom center.
5. Use numbers for table text reference, as opposed to asterisks or plus symbols, and place the

footnote and text at the bottom of the table.

6. Provide an original computer copy of the table to be photographed to the Regulations Unit; this set is attached to the 3-column microcomp copy to be photographed.

### *Figures*

1. Place at the end of a CFR part, rather than in sections to the part. Grouping all figures together makes amendments and printing easier.

2. Designate figures as figures to the part, rather than to the section or subpart.

3. Within the FR document (hard copy) , insert the words "GPO, insert figure [give the exact title of the figure you are referring] here” .

4. Be sure that all figures, maps, and other types of illustrations are clear and legible and that they will remain legible after being photographed. Remember that photographed material that is codified in the CFR is reduced in size to fit the smaller format.

5. Number all figures on the back with a light pencil, on the back at the bottom center. Don't allow the pencil to show through the page.

6. Provide an original computer copy of the figure to be photographed to the Regulations Unit; this set is attached to the 3-column microcomp copy to be photographed.

## Chapter 11: Writing an Appendix

Material in an appendix must not amend or affect existing portions of CFR text, or introduce new requirements or restrictions into regulations.

### *Placement*

1. An appendix may appear in the Code of Federal Regulations.
2. An appendix should be placed immediately following the unit to which it is appended.
3. If the agency does not want to include an appendix in the CFR, (a) it must not make any appendix reference in the regulatory text, and (b) it should notify the reader by a note under the heading to the appendix. For example:

APPENDIX A.

NOTE.--The following appendix will not appear in the Code of Federal Regulations.

### *Style.*

1. The heading of an appendix should indicate the subject of the material contained in it and the relationship of the appendix to the rest of the regulation. For example:  
“Appendix K to Subpart A of Part 611--Daily Joint Venture Fishing Log”
2. Each paragraph in an appendix should be designated using either the CFR numbering system or some other logical and consistent system.



## APPENDIX

### Comment 1:

The volume number corresponds to a calendar year, and the pages in each volume begin with page 1 on the first publication date of each calendar year and increase consecutively through the last publication date of that calendar year. Do not give the range of page numbers for the document in a citation; provide only the number of the first page of the document. A list of FR volume numbers for recent years follows:

Year Volume Year Volume

2000 65  
2001 66  
2002 67  
2003 68

The cite "67 FR 8896" refers to the volume of the FR (67 in this case) and to the page number in that volume that the cited document begins on (page 8896 in this case).

### Comment 2:

To submit your document to us for publication with the Federal Register, follow these steps:

1. Submit final draft to be edited, accompanied by the Document Review Form. After we review it, we will return it to you with our comments and changes.
2. Incorporate all editorial changes and have the document signed. Then, prepare the publication package by including: Three signed originals, one copy of a signed original, and one disk.

Before you submit the package, make sure you do the following:

- a. Handwrite or stamp the date, the signer's name, and the signer's title.
- b. Remove the sign-here stickers.
- c. Clip pages together.

Before you submit the disk, make sure you complete the signature block by typing the date and the signer's name and title, exactly as it is in the hard copy.

3. Submit the complete package, accompanied by the Document Review Form. We will encode the document and send it to the Office of the Federal Register.
4. In the interim, we solve publication problems and liaison between OFR and you. When OFR schedules the document, we will e-mail you the filing and publication schedule of the document.

### Comment 3:

NOTE: In a temporary rule, be careful only to add or suspend sections or paragraphs; do not revise or remove them because they will disappear forever at the end of the period of effectiveness of the temporary rule. Suspended text, on the other hand, will automatically be restored to the regulations at the end of the effectiveness period of the temporary rule, and all temporarily added text will disappear.

Example 1:

SUMMARY: NMFS proposed regulations to authorize a subsistence fishery of Pacific halibut in waters off Alaska. These regulations are necessary to allow qualified persons to practice the long term customary and traditional harvest of pacific halibut for food in a non-commercial manner. This action is intended to meet the conservation and management requirements of the Northern Pacific Halibut Act of 1982 (Halibut Act) and the Magnuson -Stevens Fishery Conservation and Management Act (Magnuson-Steven Act).

Example 2:

DATES: Effective December 10, 2002, except for " 648.4(a)(2), 648.7(c) and (d), and 648.21(c), which are effective February 1, 2002.

Example 3:

DATES: The emergency interim rule published at 68 FR 4866, January 25, 2003, is effective January 25, 2003, through April 25, 2003.

Example 4:

DATES: Effective from 0001 hours (local time) December 1, 2002, until the effective date of the 2003 annual specifications and management measures, which will be published in the Federal Register.

Example 5:

“Inshore component (applicable through December 31, 2004) means that part of the U.S. groundfish fishery off Alaska that includes: [additional text follows] ”

Remember: After December 31, 2004, the applicability date will expire but the permanent language will not automatically expire and should be revised or removed through a later regulatory amendment to reflect that the period of applicability has passed.

Example 6:

In the act of writing, the prewriting stage contributes a great deal to the success of the final product. Accordingly, before begin writing this section, you may wish to ask the following questions:

1. What problem does the rulemaking address?
  - What are the issues?
  - What facts, surveys, or studies identify and define the problem?
  - What law or directive authorizes the rulemaking?
  - What existing regulations address the problem?
2. How does the rulemaking attempt to solve the problem?
  - Were other solutions considered?
  - How was this solution chosen?
  - Is this solution cost effective?
  - How will this solution affect the regulated parties?
3. Does this rulemaking contain penalties for noncompliance?
  - Are penalty provisions essential?
  - Can the requirements of the regulation be monitored?
  - Can the penalty provisions be enforced?
4. Were interested parties involved in the rulemaking?
  - How were they identified?
  - How were they notified?
5. Have other documents in the rulemaking been identified (including FR volume, page and date; proper citation includes all three)?
  - Was there a proposed rule?
  - Was there an advance notice of proposed rulemaking?
  - Were there public hearings or public meetings?

A proposed rule should also address the following:

1. How will public participation be handled?
2. Are there special instructions for mailing public comments?
3. Are there formal or informal hearings?

A final rule should also address the following:

1. Are there any substantive differences between the proposed and final rules? If so, what are the changes and why were they made? Will the public have an opportunity to comment on the changes?
2. Have all substantive comments been considered and discussed?
  - Did the comments reveal any new information?
  - Did the comments suggest any alternative solutions?

Example 7:

The SUPPLEMENTARY INFORMATION section is typically the largest part of the document that describes and explains events and justifies actions. Good headings both divide subjects into related topics and connect them back in a cohesive way. Commonly used headings are “Background,” and, in final rules, “Comments and Responses” and “Changes From the Proposed Rule.” Other headings should be added as needed. The three levels of free standing-alone text headings are as follows: Level one heading in bold (flush left, first letter initial, no underline and no punctuation); Level two heading in italics (flush left, first letter initial, underlined, no punctuation); Level three heading in normal Roman font ( flush left, first letter initial, no underline and no punctuation).

1. In Background, provide a brief history of rulemaking and the issues associated with the action. Do not repeat extensive background material in final rules. Typically, the proposed rule will present the background and rationale for the proposed action; the final rule should refer the reader to the proposed rule for those details. The final rule preamble should present only enough of the background to orient the reader and should cite the proposed rule or other actions that may have taken place between the publication of the proposed and of the final rule.

2. In Comments and Responses, summarize the comments received on the proposed rule and provide the agency's response to those comments. The responses to comments need not be lengthy, but they should adequately address the comments received and indicate what action the agency is taking in response. For instance, the agency has made a change in the final rule from the proposed rule; or the agency, having considered the comment, disagrees (give the reason); or the agency has made no change from the proposed rule. The amount of detail to be included is somewhat dictated by the situation and by any associated legal issues. To the extent possible, group similar comments together and write one response to them. Comments and responses should be contained in separate, indented paragraphs, with the words Comment and Response underlined.

3. In Changes From the Proposed Rule, discuss changes, if any, made from the proposed to the final rule.

#### Example 8:

Language is the tool we have to communicate with the reader, the person who will be required to comply with the regulations and to enforce the regulations. To do so, he or she must be able to first understand the regulations.

Organization is critically important in drafting regulatory text. The organization helps determine whether the regulation is complete and easy to use, to amend, and to cite and whether it effectively accomplishes its intended objective.

1. Arrange information in regulations by placing:
  - a. General provisions before specific provisions;
  - b. More important provisions before less important provisions;
  - c. More frequently used provisions before less frequently used provisions;
  - d. Permanent provisions before temporary provisions; and
  - e. Administrative and penalty provisions at the end.

2. Express the action used in the preamble to a proposed rule in the present conditional since the rule may not necessarily be put into effect (e.g., "This management measure would ...").
3. Express the action used in the final rule document in the future tense since the action is going to take place (e.g., "This management measure will ..."). The language in the regulatory text is always presented exactly as it is to appear in the CFR.
4. Identify the agent of the action accurately ( for instance, NMFS, NOAA, the Councils, the Secretary, or other).
5. State the action in a logically organized fashion.

#### **Headings--**

- Heading 1 flush with the left margin with ***no*** underline and ***no*** period.
- Type Heading 2 flush with the left margin ***with*** an underline and ***no*** period.
- Type a Paragraph Heading at the beginning of the paragraph ***with*** an underline and ***with*** a period.

#### **Margins--**

One inch at the top, bottom, and right side.  
One and one-half inches on the left side.

#### **Page numbers--**

- Number the pages consecutively, centered top being preferred

#### **Paper--**

- Use 8 1/2" X 11" white paper.
- Do not use correction or adhesive tape.

**Quotation marks--** Use quotation marks for names of books, journals, articles, and similar items.

**Quoted material--** Type quoted material:

- Single-spaced.
- Centered-block style.
- Without quotation marks.

**Single-sided copy--** You must type your document on one side only.

**Double-spacing--** the text of your document must be double-spaced.

#### **Single-spacing--**

Type the following single-spaced:

Quoted material.  
Footnotes.  
Tables of contents.  
Examples.  
Tables.  
Notes to Tables.  
Authority citations.  
Notes.  
Formulas.

**Font**– Size 12, Style-- either Courier or Times New Roman

**Underlining--**

- Definitions (underline only the terms)
- Paragraph headings
- Scientific terms
- Ordering statements
- Court cases
- The section heading in the text of the rule (the heading will appear in bold type in the Federal Register)
- Federal Register, when referring to the name of the publication (except type in all capital letters in the parenthetical for dates that we are to compute).

***Do not*** underline for:

- Emphasis
- Names of books
- Foreign phrases

Example 9:

[For a rule not changing the authority citation]:

PART 611--FOREIGN FISHING

1. The authority citation for part 611 continues to read as follows:

Authority: 16 U.S.C. 971 et seq.

[For a rule changing the authority citation]:

PART 611--FOREIGN FISHING

1. The authority citation for part 611 is revised to read as follows:

Authority: 16 U.S.C. 971 et seq., 1361 et seq., 1801 et seq., and 22 U.S.C. 1971 et seq.

Example 10:

[To stay the entire document]:

ACTION: Final rule; stay of effective date.

SUMMARY: This action temporarily stays for 60 days the effectiveness of the notification published in the Federal Register on December 29, 2000, that terminated the deferral of the IVR system reporting requirements for Atlantic cod and haddock purchases for dealers issued Northeast Multispecies permits.

DATES: Effective February 12, 2001, the rule document, Dealer Reporting Requirements, published at 65 FR 82944 on December 29, 2000, is stayed from January 28, 2001, until April 1, 2001.

[To stay paragraphs within a document]:

DATES: Effective February 12, 2001, the amendments to § 648.14 (a) (73), published at 65 FR 82944 on December 29, 2000, are stayed from January 28, 2001, until April 1, 2001.

SUPPLEMENTARY INFORMATION:

Classification [verify with the DOC and GCF attorneys on appropriate language to insert here.]

Example 11:

In § 646.6, paragraph (n) is removed, paragraphs (o) and (p) are redesignated as paragraphs (n) and (o), respectively, and newly redesignated paragraph (n) is revised to read as follows:  
[The section would then be set out, using asterisks where appropriate.]

Example 12:

[Introductory paragraph without designation]

§ 223.102 Enumeration of threatened marine and anadromous species.

The species determined by the secretary of Commerce to be threatened pursuant to section 4(a) of the Act are the following:

(a) Marine anadromous fish. (1) Snake River spring/summer chinook [more text follows]

[Conclusive paragraph without designation]

§ 260.97 Conditions for providing fishery products inspection service at official establishments.

\* \* \* \* \*

(d) \* \* \*

(3) In case the fishery products inspection service is terminated for cause by NMFS under the term of paragraph (d)(1)(iii) of this section, the contracting party must destroy all unused containers, labels, and advertising material on hand bearing official identification marks.

After the termination of the inspection service, NMFS may, at such times as it may determine to be necessary, enter the establishment of other facilities in order to ascertain that the containers, labels and advertising material have been disposed of in the manner provided herein, to the satisfaction of NMFS.

Example 13:

2. In § 611.2, definitions for "Director", "Exempted fishing", "Scientific research or scientific research activity", "Scientific research plan", "Scientific research vessel", and "Scientific voyage" are added, in alphabetical order, to read as follows:

§ 611.2 Definitions.

\* \* \* \* \*

Director means the Director of the Office of Fisheries Conservation and Management, 1315 East-West Highway, Silver Spring, MD 20910.

\* \* \* \* \*

Exempted fishing means fishing from a foreign vessel or vessel of the Unit that involves activities prohibited by part 285 or chapter VI of this title, but that are authorized under an exempted fishing permit.

\* \* \* \* \*

Regulatory district means any of the three districts of the Eastern Regulatory the Shelikof Strait district described as follows:

- (1) Southeast Outside district--all waters of the EEZ east of 137 °00' W. long.;
- (2) Southwest....



## Sample 1: Proposed Rule

BILLING CODE 3510-22-S

### DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010313063-1063-01; I.D. 121200A]

RIN 0648-AO20

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes revisions to several sections of regulations that pertain to permits, recordkeeping, and reporting requirements for crab and groundfish fisheries off Alaska. The proposed changes are necessary to remove obsolete text, clarify and simplify existing text, facilitate management of the fisheries, promote compliance with the regulations, and facilitate enforcement efforts. This action is intended to further the goals and objectives of the fishery management programs for crab and groundfish fisheries off Alaska.

DATES: Comments must be received by [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Comments must be sent to Sue Salveson, Assistant Administrator, Sustainable Fisheries Division, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel), or delivered to Federal Building, Fourth Floor, 709 West 9th Street, Juneau, AK, and marked Attn: Lori Gravel. Copies of the Regulatory Impact Review (RIR) prepared for this action may be obtained from the same address or by calling the Alaska Region, NMFS, at 907-586-7228. Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907-586-7228.

### SUPPLEMENTARY INFORMATION:

#### Background

The initial total commercial quota for summer flounder for the 2000 calendar year was set equal to 11,109,214 lb (5,039,055 kg)(65 FR 33486, May 24, 2000). The percent allocated to vessels landing summer flounder in North Carolina is 27.44584 percent, or 3,049,560 lb (1,383,257 kg).

#### Comments and Responses

NMFS received 42 letters of comments in response to a request for comments in the proposed rule. Many letters contained similar comments and are consolidated. Response to comments addressing significant issues and requiring a reply are summarized here.

Comment 1: Eleven (of 42) commenters supported making the 100-yd (91.4-m) approach distance in the current Alaska Marine Mammal Viewing Guidelines the regulatory approach distance.

Response: NMFS concurs. Please see preamble to the final rule for further explanation on this change from the proposed rule.

Comment 2: Twelve commenters supported the 200-yd (182.8-m) proposed approach distance.

Response: While some comments supported the proposed 200-yd (182.8-m) approach limit, NMFS believes that maintaining consistency with regulations governing approaches to humpback whales in Hawaii, as well as with the Guidelines already established for waters off Alaska is important.

#### List of Subjects in 50 CFR Part 679

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.  
Dated: November 15, 2001.

---

William T. Hogarth,  
Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

#### PART 679--FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 679.1, the first sentence of paragraph (b) is revised to read as follows:

§ 679.1 Purpose and scope.

\* \* \* \* \*

(b) No person shall possess more than 15 bluefish in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a bluefish commercial permit or is issued a bluefish dealer permit. \* \* \*

\* \* \* \* \*

3. In § 679.5, paragraphs (s) and (t) are revised to read as follows:

§ 679.5 Recordkeeping and reporting.

\* \* \* \* \*

(s) Take, retain, possess or land sablefish under the cumulative limits provided for the primary limited entry, fixed gear sablefish season, described in paragraph (a)(2) of this section, from a vessel that is not registered to a limited entry permit with a sablefish endorsement.

(t) Take, retain, possess, or land more than a single cumulative limit of a particular species, per vessel, per applicable cumulative limit period, except for sablefish taken in the primary limited entry, fixed gear sablefish season from a vessel authorized under § 679.21 (a)(2)(i) to participate in that season, as described at § 660.323(a)(2)(ii)(C) of this chapter and § 300.323 (a) of this title.

\* \* \* \* \*



## **Sample 2: Proposed Rule: Extension of public comment period**

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 020424095-2095-01; I.D. 032801B]  
RIN 0648-AP25

Fishing Capacity Reduction Program for the Crab Species Covered by the Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Extension of public comment period on proposed rule.

-----  
SUMMARY: This document extends for 30 days the public comment period on a proposed rule for establishing a fishing capacity reduction program for the crab species managed under the Bering Sea/Aleutian Islands King and Tanner Crab Fishery Management Plan (FMP), as published on December 12, 2002.

DATES: The deadline for comments on the proposed rule will be extended from January 28, 2003, to February 27, 2003.

ADDRESSES: Mail or fax written comments about this extension or the proposed rule to Michael L. Grable. The mailing address is: Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3282. The fax number is (301) 713-1306. NMFS will not accept e-mail or internet comments.

If a comment involves any aspect of the proposed rule's collection of information requirements, send the comment both to Michael L. Grable and to the National Oceanic and Atmospheric Administration Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. Anyone may obtain, from Michael L. Grable, the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis for this proposed rule.

Anyone wishing to contact the Restricted Access Management Program (which issues crab species fishing licenses) may do so at this address: Restricted Access Management Program, National Marine Fisheries Service, P.O. Box 21668, Juneau AK 99802-1668. The fax number is (907) 586-7354.

FOR FURTHER INFORMATION CONTACT: Michael L. Grable, (301) 713-2390

## SUPPLEMENTARY INFORMATION:

### Background

On December 12, 2002 (67 FR 76329), NMFS published a proposed rule in the Federal Register that would implement regulations for a program to reduce excess capacity and promote economic efficiency in the crab fishery under the FMP. NMFS would finance the voluntary program's \$100 million cost with a 30-year loan to be repaid by post-reduction fishermen. The proposed rule was corrected in the Federal Register on December 30, 2002 (67 FR 79550).

The deadline for comments on the proposed rule was January 27, 2003, and January 29, 2003 on the correction. This extension of the comment period until February 27, 2003 is in response to requests made by the public. Moreover, as the Bering Sea and Aleutian Islands C. opilio fishery was open during part of the original comment period, NMFS notes that an extension of comment period would give these members of the affected public a better chance to comment on the rule.

Authority: 16 U.S.C. 1801 et. seq.

Dated: January 23, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 03-1908 Filed 1-27-03; 8:45 am]

BILLING CODE 3510-22-S

### Sample 3: Final Rule

#### DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010319075-1217-02; I.D. 011101A]

RIN 0648-AF87

Fisheries of the Northeastern United States; Fishery Management Plan for Tilefish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS announces the approval of the Fishery Management Plan for Tilefish (FMP) and issues a final rule to implement that FMP. The final rule is designed to eliminate overfishing, as defined in that FMP, and to rebuild the tilefish stock in the northwest Atlantic Ocean by implementing: A stock rebuilding strategy; a limited entry program; a tiered commercial quota; permit and reporting requirements for commercial vessels, operators, and dealers; a prohibition on the use of gear other than longline gear by limited-access tilefish vessels; and an annual specification and framework adjustment process.

DATES: This final rule is effective November 1, 2001.

ADDRESSES: Copies of the FMP, its Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), and the Final Environmental Impact Statement (FEIS) are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904-6790.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Bonnie Van Pelt, Fishery Management Specialist, voice 978-281-9244; fax 978-281-9135; e-mail [Bonnie.L.Vanpelt@noaa.gov](mailto:Bonnie.L.Vanpelt@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

A Notice of Availability (NOA) of the FMP was published in the Federal Register on February 12, 2001 (66 FR 9814), with a comment period ending April 13, 2001. A proposed rule to implement the FMP was published in the Federal Register on April 3, 2001 (66 FR 17673), with a comment period ending May 18, 2001. The FMP was approved by NMFS on behalf of the Secretary of Commerce (Secretary) on May 10, 2001.

This final rule is designed to eliminate overfishing as defined in the FMP and to rebuild the tilefish stock in the Northwest Atlantic Ocean by implementing the following: (1) a stock rebuilding strategy; (2) a limited entry program; (3) tiered commercial quota allocations or total allowable landings (TAL) for limited access and open access permit categories; (4) a prohibition on the use of gear other than longline gear for limited access tilefish vessels; (5) permit and reporting requirements for commercial vessels, operators, and dealers; and (6) an annual specification and framework adjustment process. These items form the basis for management of the stock. Discussions and details pertaining to these items and the justification for the

development of the FMP are found in the preamble to the proposed rule and the NOA and are not repeated here.

The annual quota setting process implemented by this final rule differs from that set forth in the FMP in order to incorporate the provisions of the Council's omnibus framework, Framework 1 (covering most of the Council's FMPs), which allow the Council to set aside up to 3 percent of a species' TAL to be used to compensate for research. Framework 1 established the ability to modify quotas through the annual specification process. The background of the framework and the quota modification process are discussed in the preamble to the final rule implementing Framework 1, published August 10, 2001 (66 FR 42156), for other Mid-Atlantic fisheries.

This final rule differs from the proposed rule by providing for an up to 3-percent research set-aside for tilefish and by revising the vessel reporting requirements for the tilefish Interactive Voice Response System (IVR) by requiring that vessel owners/operators report on a trip-by-trip basis, rather than on a weekly basis. Since the average tilefish trip is 10 days, this change from weekly to per trip reporting better reflects fishing practices. Paperwork Reduction Act (PRA) burden estimates for individual vessel reporting through the IVR over the entire fishing year decrease due to this change.

#### Comments and Responses

NMFS received 306 written comments on the FMP and the proposed rule.

Comment 1. Numerous commenters stated that ...

Response. While bottom-tending mobile gear could ...

Comment 2. One commenter stated that ...

#### Classification

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping Requirements.

Dated:

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

#### PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 648.1, the first sentence of paragraph (a) is revised to read as follows:

#### § 648.1 Purpose and scope.

(a) This part implements the fishery management plans (FMPs) for the Atlantic mackerel, squid, and butterfish fisheries (Atlantic Mackerel, Squid, and Butterfish FMP); Atlantic salmon (Atlantic Salmon FMP); the Atlantic sea scallop fishery (Scallop FMP); the Atlantic surf clam and ocean quahog fisheries (Atlantic Surf Clam and Ocean Quahog FMP); the Northeast multispecies fishery (Multispecies FMP); the monkfish fishery (Monkfish FMP); the summer flounder, scup, and black sea bass fisheries (Summer Flounder, Scup, and Black Sea Bass FMP); the Atlantic bluefish fishery (Atlantic Bluefish FMP); the spiny dogfish fishery (Spiny Dogfish FMP); the Atlantic herring fishery (Atlantic Herring FMP); and the tilefish fishery (Tilefish FMP). \* \* \*

\* \* \* \* \*

3. In § 648.4, paragraph (a)(12) is added and paragraph (b) is revised to read as follows:  
§ 648.4 Vessel permits.

(a) \* \* \*

(12) Tilefish vessels. Any vessel of the United States must have been issued and carry on board a valid tilefish vessel permit to fish for, possess, or land tilefish in or from the tilefish management unit.

(i) Limited access tilefish permits--(A) Eligibility. A vessel may be issued a limited access tilefish permit if it meets any of the following limited access tilefish permit criteria, provided that the vessel landed the specified amounts of tilefish to meet such criteria within the tilefish management unit:

(1) Full-time tier 1 category. The vessel landed at least 250,000 lb (113,430 kg) of tilefish per year for any 3 years between 1993 and 1998, at least 1 lb (2.20 kg) of which was landed prior to June 15, 1993.

(2) Full-time tier 2 category. The vessel landed at least 30,000 lb (13,612 kg) per year for any of 3 years between 1993 and 1998, at least 1 lb (2.20 kg) of which was landed prior to June 15, 1993.

(B) Qualification restrictions. The provisions of paragraph (a)(1)(i)(C) of this section apply.

(ii) [Reserved]

(b) Permit conditions. Any person who applies for a fishing permit under this section must agree, as a condition of the permit, that the vessel and the vessel's fishing activity, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ; and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part, unless exempted from such requirements under this part.

\* \* \* \* \*



## **Sample 4: Final Rule: Extension of expiration day of emergency rule**

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 021219321-2321-01; I.D. 120901A]  
RIN 0648-AQ39

Atlantic Highly Migratory Species; Commercial Shark Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Extension of expiration date of emergency rule; request for comments; fishing season notification.

-----

SUMMARY: NMFS extends the expiration date of the emergency rule that established the commercial annual quotas for ridgeback and non-ridgeback large coastal sharks (LCS) at 783 metric tons (mt) dressed weight (dw) and 931 mt dw, respectively; established the commercial annual quota for small coastal sharks (SCS) at 326 mt dw; and suspended the regulation regarding the commercial ridgeback LCS minimum size. NMFS clarifies that the provision to count dead discards against the commercial quota applies to dead discards by HMS fishermen only. NMFS also notifies eligible participants of the opening and closing dates for the second semi-annual 2003 Atlantic LCS, SCS, pelagic shark, blue shark, and porbeagle shark fishing seasons. This emergency rule extension is necessary to ensure that the regulations in force are based on the best available science.

DATES: The expiration date of the emergency rule published December 27, 2002 (67 FR 78990), is extended from August 29, 2003, to December 29, 2003.  
Comments on this action must be received no later than 5 p.m. on July 14, 2003.

ADDRESSES: Written comments on this action must be mailed to Christopher Rogers, Chief, NMFS Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to 301-713-1917. Comments will not be accepted if submitted via email or the Internet. Copies of the Environmental Assessment and Regulatory Impact Review (EA/RIR) prepared for the initial emergency rule and copies of the supplemental EA prepared for this extension may be obtained from Karyl Brewster-Geisz at the same address or may be obtained on the web at <http://www.nmfs.noaa.gov/sfa/hmspg.html>.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Chris Rilling at 301-713-2347.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) is implemented by regulations at 50 CFR part 635.

On May 8, 2002, NMFS announced the availability of the first SCS stock assessment since 1992 (67 FR 30879). The Mote Marine Laboratory and the University of Florida provided NMFS with another SCS stock assessment in August 2002. Both these stock assessments indicate that overfishing is occurring on finetooth sharks. The three other species in the SCS complex (Atlantic sharpnose, bonnethead, and blacknose) are not overfished and overfishing is not occurring.

On October 17, 2002, NMFS announced the availability of the LCS stock assessment (67 FR 64098), which currently constitutes the best available science for LCS. The results of this stock assessment indicate that the LCS complex is still overfished and overfishing is occurring; that sandbar sharks are no longer overfished but that overfishing is occurring; and that blacktip sharks are rebuilt and overfishing is not occurring. The peer review process for the 2002 LCS stock assessment, required under the December 2000 settlement agreement with commercial fishermen, was completed in mid-December, 2002.

As a result of these stock assessments, NMFS published an emergency rule on December 27, 2002 (67 FR 78990), that implemented management measures based on the best available science. The December 2002 emergency rule expires on June 30, 2003.

This extension to the December 2002 emergency rule (1) maintains the commercial annual quotas for ridgeback and non-ridgeback LCS at 783 mt dw and 931 mt dw, respectively; (2) maintains the commercial annual quota for SCS at 326 mt dw; and (3) continues to suspend the regulation regarding the commercial ridgeback LCS minimum size. This emergency rule does not affect commercial management measures for pelagic sharks and does not affect the management measures for prohibited species or recreational fisheries.

The extension is necessary to manage and conserve LCS and SCS based on the best scientific information available. Without this emergency rule extension, the reduced LCS and SCS commercial quotas of 816 mt dw in the HMS FMP and based on the 1998 LCS stock assessment, would be in force, inconsistent with the terms of the court-approved settlement agreement and with National Standard 2 of the Magnuson-Stevens Act. The settlement agreement with commercial fishermen explicitly provided that NMFS could adjust LCS quotas and other management measures in the 1999 HMS FMP based on the 2002 LCS stock assessment after completion of a peer review process, but could take emergency action as needed based on the assessment pending completion of the review process.

NMFS is developing Amendment 1 to the HMS FMP for Atlantic sharks in response to the new stock assessments.

[More text follows]

## Sample 5: Notice

Billing Code: 3510-22-S

DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
[I.D. 102201C]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of request to modify research permits 1178 and 1295.

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has received a request to modify permits (1178 and 1295) from Dr. Michael Sissenwine, of Northeast Fisheries Science Center.

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application or modification request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment:

For permits 1178, 1295: Endangered Species Division, F/PR3, 1315 East West Highway, Silver Spring, MD 20910 (phone: 301-713-1401, fax: 301-713-0376).

FOR FURTHER INFORMATION CONTACT:

Lillian Becker, Silver Spring, MD (phone: 301-713-2319, fax: 301-713-0376, e-mail: [Lillian.Becker@noaa.gov](mailto:Lillian.Becker@noaa.gov))

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under section 10(a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222-226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see ADDRESSES). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species are covered in this notice:

Sea turtles

Threatened and endangered Green turtle (Chelonia mydas)

Endangered Hawksbill turtle (Eretmochelys imbricata)

Endangered Kemp's ridley turtle (Lepidochelys kempii)

Endangered Leatherback turtle (Dermochelys coriacea)

Threatened Loggerhead turtle (Caretta caretta)

Modification Requests Received

Permit 1178

The applicant requests a modification to Permit 1178. Permit 1178 authorizes the tagging, handling, collection of skin biopsies, and release of the above listed turtles. Modification #3 would authorize the importing and exporting of dead turtles and turtle specimens to/from the US and to import live turtles for the purpose of rehabilitation.

Permit 1295

The applicant requests a modification to Permit 1295. Permit 1295 authorizes the tagging, handling, biopsy, and release of the above listed turtles. Modification #1 would authorize the importing and exporting of dead turtles and turtle specimens to/from the US and to import live turtles for the purpose of rehabilitation.

Dated: November 15, 2001.

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Phil Williams, Acting Chief, Endangered Species Division, Office of Protected Resources,  
National Marine Fisheries Service.

## **Sample 6: Notice: Announcing more than four meetings**

Billing Code 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051203C]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Gulf of Mexico Fishery Management Council; Public Workshops

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public workshops; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public workshops on collecting information about vessel expenses and earnings in the Gulf of Mexico reef fish and coastal pelagics (mackerel) fisheries.

DATES: The public workshops will be held in May and June. See SUPPLEMENTARY INFORMATION for specific dates and times.

ADDRESSES: Written comments should be sent to, and copies of the scoping document are available from, the Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, FL 33619. The public workshops will be held in Florida, Alabama, Texas, and Louisiana. For specific locations, see SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Dr. Antonio Lamberte, Senior Economist, Gulf of Mexico Fishery Management Council; telephone: (813) 228-2815.

SUPPLEMENTARY INFORMATION: The Council will conduct workshops on collecting information about vessel expenses and earnings in the Gulf of Mexico reef fish and coastal pelagics (mackerel) fisheries. The main goal of the workshops is to solicit the views of participants on the importance and necessity of collecting vessel and trip level information on expenses and earnings. In addition, participants will be asked for their views on the methods of collecting such information.

Vessel expenses and earnings, also known as cost and returns, information is extremely important as it allows the Council to have a better understanding of the economic impacts of proposed management actions while they are still under consideration. In addition, several laws such as the Magnuson-Stevens Fishery Conservation and Management Act, National Environmental Policy Act, Regulatory Flexibility Act, and Executive Order 12866 require the use of economic information in the deliberation and formulation of regulations. Fishery participants' views regarding the nature and collection of this information are critical so that at the time it is collected, assembled, and analyzed a more credible picture of the economic condition of the fishery will be depicted and used in the management process.

Council staff, with the assistance of NMFS staff, will conduct the workshops.

### **Dates, Times, and Locations for Public Workshops**

All workshops will begin at 6 p.m. local time and conclude at about 9 p.m. at the following locations and dates:

1. Tuesday, May 27, 2003, Four Points Hotel by Sheraton, 1325 Miracle Strip Parkway, Fort Walton Beach, FL 32548; telephone: 850-796-3815;

2. Wednesday, May 28, 2003, Adam's Mark Hotel, 64 South Water Street, Mobile, AL 36602; telephone: 251-438-4000;
3. Monday, June 2, 2003, Texas City Department of Recreation & Tourism, Nessler Center, 2010 5th Avenue North, Texas City, TX 77590; telephone: 409-643-5990;
4. Tuesday, June 3, 2003, Lake Jackson Library, 250 Circle Way, Lake Jackson, TX 77566; telephone: 979-297-1271;
5. Wednesday, June 4, 2003, Matagorda Volunteer Fire Department, P. O. Box 70, Matagorda, TX 77457; telephone: 979-863-7551;
6. Thursday, June 5, 2003, Holiday Inn Beachside Key West, 3841 N. Roosevelt Blvd, Key West, FL 33040; telephone: 305-294-2571;
7. Friday, June 6, 2003, La Quinta Inn Fort Myers, 4850 S. Cleveland Avenue, Fort Myers, FL 33907; telephone: 941-275-3300;
8. Monday, June 9, 2003, City of Madeira Beach, 300 Municipal Drive, Madeira Beach, FL 33708; telephone: 727-391-9951;
9. Wednesday, June 11, 2003, Larose Civic Center, 307 East 5th Street, Larose, LA 70373; telephone: 985-693-7355;
10. Thursday, June 12, 2003, Police Jury Annex, 110 Smith Circle, Cameron, LA 70631; telephone: 333-775-5718; and
11. Friday, June 13, 2003, Hilton New Orleans Airport, 901 Airline Drive, Kenner, LA 70062; telephone: 504-469-5000.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see ADDRESSES).

Dated: May 21, 2003

Bruce C. Morehead,  
Acting Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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